

## **EXHIBIT “E”**

## **EXHIBIT “E”**

Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

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Attorneys for eTreppid Technologies, L.L.C. and  
Warren Trepp

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF NEVADA**

DENNIS MONTGOMERY, an individual; and  
MONTGOMERY FAMILY TRUST, a California  
Trust,

Plaintiff,

vs.

ETREPPID TECHNOLOGIES, L.L.C., a Nevada  
Limited Liability Company; WARREN TREPP,  
an individual; DEPARTMENT OF DEFENSE of  
the UNITED STATES OF AMERICA, and  
DOES 1 through 10,

Defendants

Case No. 3:06-CV-00056-PMP-VPC  
Base File

3:06-CV-00145-PMP-VPC

**SECOND SET OF REQUESTS BY  
ETREPPID TECHNOLOGIES, L.L.C.  
AND WARREN TREPP FOR  
PRODUCTION OR INSPECTION OF  
DOCUMENTS OR TANGIBLE  
THINGS**

AND RELATED CASE(S)

PROPOUNDING PARTY:

eTreppid Technologies, L.L.C. and Warren Trepp

RESPONDING PARTIES:

Dennis Montgomery and The Montgomery Family Trust

SET NUMBER:

TWO

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, eTreppid Technologies, L.L.C. and Warren Trepp ("eTreppid"), by and through their undersigned counsel, Hale Lane Peek Dennison and Howard, hereby request that Dennis Montgomery and The Montgomery Family Trust (collectively, "Montgomery") produce the documents and things described below for inspection and copying by counsel for eTreppid. As requested by Rule 34(a), Montgomery must produce all documents for inspection and copying either as they are kept in the ordinary course of business or segregated according to each request and must be produced within thirty (30) days of this request. Montgomery shall produce such documents and things for inspection and copying to Jerry Snyder at the office of Hale Lane Peek Dennison and Howard, located at 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511, unless otherwise set forth in the request.

### INSTRUCTIONS

1. The following rules of construction shall be applied herein: (1) the words "and" or "or" shall be construed conjunctively or disjunctively as necessary to make the requests for production inclusive rather than exclusive; (2) the singular includes the plural and vice-versa; and (3) the words "any," "all," "each" and "every" all include any, all, each and every.

2. The following requests seek all DOCUMENTS in YOUR possession, custody or control, wherever located, and specifically includes all DOCUMENTS in the possession, custody or control of YOUR agents, partners, officers, employees, attorneys, accountants, investigators, representatives and each of them. A DOCUMENT is deemed to be in YOUR possession, custody or control if it is in YOUR physical custody, or if it is in the physical custody of any other PERSON and YOU (i) own such DOCUMENT in whole or in part, (ii) have a right by contract, statute or otherwise, to use, inspect, examine or copy such DOCUMENT on any terms, (iii) have an understanding, express or implied, that YOU may use, inspect, examine or copy such DOCUMENT on any terms, or (iv) have, as a practical matter, been able to use, inspect, examine or copy such DOCUMENT when YOU sought to do so.

3. For each DOCUMENT that YOU decline to make available for inspection and copying on the grounds of privilege or the attorney work product rule, provide the following information:

(a) State the date on which the DOCUMENT was created,

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- 1 (b) IDENTIFY the author of the document,
- 2 (c) State the title of the DOCUMENT,
- 3 (d) Briefly describe the nature and contents of the DOCUMENT,
- 4 (e) IDENTIFY each PERSON or entity that received a copy of the DOCUMENT or
- 5 to whom the DOCUMENT or its contents were disclosed,
- 6 (f) Identify the privilege or rule that YOU contend protects the DOCUMENT from
- 7 disclosure, and
- 8 (g) Identify each fact on which YOU base YOUR contention that the privilege or
- 9 rule identified in YOUR response to section (e) of this instruction is applicable.
- 10 4. YOU shall produce only one copy of each DOCUMENT requested herein; however,
- 11 each non-identical version of any DOCUMENT shall constitute a separate document.
- 12 5. If these requests for production cannot be responded to in full, respond to the extent
- 13 possible, specify the reason for YOUR inability to respond to the remainder and state whatever
- 14 information or knowledge YOU have regarding the portion to which YOU have not responded.
- 15 6. Where a date is requested and the actual date is not known, state the approximate date.

#### 16 DEFINITIONS

- 17 1. "COMMUNICATION" includes all conversations, written, oral, or electronic, including
- 18 meetings, memoranda, correspondence, conferences, and any other means or manner by which
- 19 information is or was conveyed to or received from others.
- 20 2. "DOCUMENT" or "DOCUMENTS" means all forms of tangible expression including any
- 21 written, printed, recorded, pictorial, graphic or photographic material, or electronically stored
- 22 information, however produced or reproduced, of each document YOU have knowledge of or which is
- 23 in YOUR possession, custody or control as well as any matter attached thereto – including, but not
- 24 limited to, the original or a copy of any handwriting, typewriting, printing, photostating,
- 25 photographing, and every other means of recording upon any tangible thing and form of
- 26 communicating or representation, including letters, words, pictures, sounds, symbols, combinations of
- 27 them, and any data, information, or electronic media recorded in any form by or on a computer, floppy
- 28 disk, compact disk, or similar device (including, but not limited to, software and source code),



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1 correspondence, memoranda (internal, inter-office and/or external), statements, agreements, e-mails  
2 (deleted and/or active), contracts, drafts, telegraphs, cables, notes, reports, studies, analyses, records,  
3 evaluations, charts, ledgers, checks, tables, tabulations, compilations, summaries, indices, abstracts,  
4 drawings, blueprints, labels, tags, pleadings, testimony, speeches, articles, books, pamphlets,  
5 brochures, magazines, newspapers, calendars, diaries, minutes, orders, photographs, moving pictures,  
6 microfilms, microfiche, tapes, recordings, computer records and disks, and any other matter which  
7 contains any form of communication or representation, and all drafts thereof. All electronically stored  
8 information is to be produced in native format, including all metadata.

9 3. "FORENSIC COPY" shall mean "an exact copy of the entire physical storage media (hard  
10 drive, CD-ROM, DVD-ROM, tape, etc.), including all active and residual data and unallocated space  
11 on the media."

12 4. "IDENTIFY" with reference to a natural PERSON means to state the name and last known  
13 residence address and business address and home and work telephone numbers for such person, as well  
14 as the name and address of his present employer, the nature of his current employment and his  
15 employment relationship, if any, to YOU.

16 5. "IDENTIFY" with reference to a non-natural PERSON means to state the name and last  
17 known business address and telephone numbers for such company.

18 6. "IDENTIFY" with reference to a DOCUMENT means to state the date that it bears, its  
19 author(s), its specific format(s) (for example, a computer file in Microsoft Word format, or an email in  
20 HTML format), and any PERSON known to have seen, received or reviewed its contents. Whenever  
21 YOU are requested to "IDENTIFY" a DOCUMENT, YOU may submit the DOCUMENT itself in lieu  
22 of IDENTIFYING it. If any such DOCUMENT exists, but is no longer in YOUR possession or  
23 subject to YOUR control, state what disposition was made of it and its present location and custodian.  
24 If any such DOCUMENT once existed but no longer exists, state what disposition was made of it,  
25 when such disposition took place, and list each PERSON who has knowledge of such disposition.

26 7. "IDENTIFY" with reference to a COMMUNICATION means to state: the identity of each  
27 PERSON who made each COMMUNICATION; the identity of each PERSON to whom each  
28 COMMUNICATION was made; the identity of each PERSON who was present during each

1 COMMUNICATION or who received a copy of each COMMUNICATION; and a complete  
2 description of the substance and content of the COMMUNICATION.

3 8. "NATIVE FORMAT" means the original electronic, audio, and/or video format in which a  
4 particular document was created (e.g. Microsoft Word, Microsoft Outlook, MP3, etc.)

5 9. "PERSON" or "PERSONS" means any natural person, corporation, cooperative,  
6 partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission or  
7 other entity.

8 10. "RELATED TO," "RELATE TO" and "RELATING TO" shall include, without limitation,  
9 constituting, contemplating, covering, criticizing, communicating, detailing, evaluating,  
10 demonstrating, respecting, regarding, concerning, pertaining to, referring to, stating, establishing,  
11 showing, describing, recording, noting, embodying, memorializing, containing, mentioning, studying,  
12 analyzing or discussing.

13 11. "SOURCE CODE" means, without limitation, all text files that have been compiled to  
14 develop any and all computer files or software programs; any sequence of instructions in human  
15 readable form that may be converted into a machine readable language to create any and all computer  
16 files or software programs; and any and all combination of functionalities that may be used to create  
17 computer files or software programs.

18 12. "STATE" means to set forth fully and unambiguously every fact relevant to the answer  
19 called for by the Request, of which YOU have knowledge.

20 13. "YOU," "YOUR" and "YOURS" refer herein to Dennis Montgomery, The  
21 Montgomery Family Trust, Brenda Montgomery, and anyone acting or authorized to act on behalf of  
22 any and all of them – including any representatives, employees, agents, servants, or attorneys and  
23 others who are in possession or may have obtained information for you or on your behalf.

#### 24 **REQUESTS FOR PRODUCTION AND INSPECTION**

25 **Request for Production No. 1:** Please produce all documents that contain any source code,  
26 written by you or under your direction, that relates to the fields of data compression, pattern  
27 recognition, object tracking or anomaly detection (including, but not limited to, all or any part of a  
28 software program or algorithm).

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1        **Request for Production No. 2:** Please produce all documents that relate to any research and  
2 development efforts made, by you or by anyone working under your direction, in the fields of data  
3 compression, object tracking, pattern recognition, or anomaly detection (including, but not limited to,  
4 any and all notes, diagrams, laboratory materials, or source code).

5        **Request for Production No. 3:** Please produce all executable versions of any and all  
6 software, developed by you or by anyone working under your direction, which relates to the fields of  
7 data compression, object tracking, pattern recognition, or anomaly detection.

8        **Request for Production No. 4:** Please produce all documents that relate to the software that  
9 you transferred to eTreppid under the terms of the September 28, 1998 Contribution Agreement  
10 (including, but not limited to, all source code – whether in printed or electronic form – executable files,  
11 shop notes, laboratory notes, and any other memoranda).

12        **Request for Production No. 5:** Please produce **FOR INSPECTION** by Jonathan Karchmer  
13 of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty  
14 (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno,  
15 Nevada 89511, or **PRODUCE** forensic copies of, any original or copied electronic storage device,  
16 including any hard drive, or disk. This Request includes, but is not necessarily limited to, evidence  
17 stored in any electrical, electronic, or magnetic form, such as an electronic or magnetic storage device,  
18 including floppy diskettes, hard disks, ZIP disks, JAZ Drives, CD-ROMs, DVD-ROMs, optical disks,  
19 backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants, and  
20 printouts or readouts from any magnetic storage device.

21        **Request for Production No. 6:** Please produce **FOR INSPECTION** by Jonathan Karchmer  
22 of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty  
23 (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno,  
24 Nevada 89511, or **PRODUCE** forensic copies of, any original or copied electronic storage device,  
25 including any hard drive or disk, within your custody, control or possession that was seized by the  
26 Federal Bureau of Investigation (“FBI”) and returned to you pursuant to File No. 295A-LV-39368.  
27 This Request includes, but is not necessarily limited to, evidence stored in any electrical, electronic, or  
28 magnetic form, such as an electronic or magnetic storage device, including floppy diskettes, hard

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1 disks, ZIP disks, JAZ Drives, CD-ROMs, optical disks, backup tapes, printer buffers, smart cards,  
2 memory calculators, pagers, personal digital assistants, and printouts or readouts from any magnetic  
3 storage device that was seized by the FBI and returned to you.

4 **Request for Production No. 7:** Please produce **FOR INSPECTION** by Jonathan Karchmer  
5 at a time mutually agreeable to the parties, but in no event later than within the next thirty (30) days, at  
6 the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or  
7 **PRODUCE** forensic copies of all documents and electronically stored information, including, but not  
8 limited to, all source code contained on all computer hard drives seized by the FBI and returned to you  
9 pursuant to File No. 295A-LV-39368, including, but not limited to, the following hard drives:  
10 WD3200, Serial No. WMAMR1066012; WD3200, Serial No. WMAMR1509932; WD3200, Serial  
11 No. WMAMR1523649; WD3200, Serial No. WMAMR1537929; WD2500, Serial No.  
12 WMAL71844911; WD3200, Serial No. WMAMR1538197; WD3200, Serial No. WMAMR1538570;  
13 WD3200, Serial No. WMAMR1538581; WD3200, Serial No. WMAMR1539825; WD3200, Serial  
14 No. WMAMR1539942; WD3200, Serial No. WMAMR1543003; WD3200, Serial No.  
15 WMAMR1580666; WD3200, Serial No. WMAMR1580671; WD3200, Serial No. WMAMR1612253;  
16 WD3200, Serial No. WMAMR1624507; WD3200, Serial No. WMAMR1673681; Serial No.  
17 WMAMR1420949; Serial No. WMAD15194737; 120 GB Hard drive, Serial No. WMA8C1223396;  
18 40 GB Hard drive, Serial No. WMAD15256807; 40 GB Hard drive, Serial No. WCAD16502878; 40  
19 GB Hard drive, Serial No. WMAD16644525; 40 GB Hard drive, Serial No. WMAD15335294; 40 GB  
20 Hard drive, Serial No. WCAD13691228; 120 GB Hard drive, Serial No. WMA863243070; Seagate  
21 30.6 GB Hard drive, Serial No. 3CK028W3; Seagate 30.6 GB Hard drive, Serial No. 3CK00XXY; and  
22 Maxtor 300 GB Hard drive, Serial No. L60XL7PH.

23 **Request for Production No. 8:** Please produce all versions, both drafts and final, of all  
24 eTreppid organizational agreements, including the Contribution Agreement, the Operating Agreement  
25 and amendments thereto.

26 **Request for Production No. 9:** Please produce all documents referencing or concerning your  
27 membership in eTreppid, including all correspondence between you, or anyone acting on your behalf,  
28 and eTreppid, Warren Trepp, Doug Frye, or any other manager or member of eTreppid.



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1        **Request for Production No. 10:** Please produce all documents referencing or concerning  
2 Copyright Registration Certificates for TXu00098728, TXu800098727, TXu00098699,  
3 TXu000119540, TXu000117868, TXu0002000234, TXu0001992867, TXu0002034758,  
4 TXu0001983147, TXu0002000234, TXu000098731, TXu0002083750, and TXu0002095009.

5        **Request for Production No. 11:** Please produce all Patents and Patent Applications identified  
6 as exhibits during the state court action hearing on eTreppid's motion for preliminary injunction.

7        **Request for Production No. 12:** Please produce all documents relating to eTreppid's  
8 contracts and work with the private sector, including all contracts with non-governmental third-parties.

9        **Request for Production No. 13:** Please produce all documents referencing or concerning any  
10 and all payments from eTreppid to Montgomery.

11        **Request for Production No. 14:** Please produce all documents relating to eTreppid's  
12 contracts and work with the United States Government.

13        **Request for Production No. 15:** Please produce all documents referencing or concerning  
14 eTreppid's monthly invoices to the United States Government.

15        **Request for Production No. 16:** Please produce for inspection all items seized from and  
16 returned to Montgomery in connection with the FBI search, seizure and return pursuant to File No.  
17 295A-LV-39368.

18        **Request for Production No. 17:** Please produce all documents memorializing  
19 communications to and from eTreppid, regarding eTreppid's use and intended use of any intellectual  
20 property in which Montgomery asserts any ownership interest.

21        **Request for Production No. 18:** Please produce all documents (including e-mails and  
22 correspondence in native format) referencing any and all source code used by eTreppid from the  
23 execution of the Contribution Agreement on September 28, 1998 to the present time.

24        **Request for Production No. 19:** Please produce any and all e-mails contained in the e-mail  
25 account(s) provided to you by eTreppid, in their native format.

26        **Request for Production No. 20:** Please produce all e-mails sent or received by Warren  
27 Trepp, Doug Frye, or any other manager, member, or employee of eTreppid, in their native format.  
28

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Reno, Nevada 89511

1       **Request for Production No. 21:** Please produce all correspondence between you and Doug  
2 Frye, Warren Trepp, or any other member, manager or employee of eTreppid, discussing, concerning,  
3 or relating to the management of eTreppid, budgeting for expenses, employment policies, or any like  
4 matters.

5       **Request for Production No. 22:** Please provide all documents which you have provided to  
6 NBC, the Wall Street Journal, or any other newspaper, television network, or other media outlet  
7 regarding Warren Trepp, eTreppid, Jim Gibbons, or any other aspect of the present litigation.

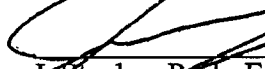
8       **Request for Production No. 23:** Please provide all correspondence between you or anyone  
9 acting on your behalf and reporter John Wilke of the Wall Street Journal, reporter David Johnston of  
10 the New York Times, or any other reporters which discusses, refers to, or relates to Trepp, eTreppid,  
11 Jim Gibbons, or any other aspect of the present litigation.

12       **Request for Production No. 24:** Please provide all documents evidencing any payment made  
13 to you for any purpose whatsoever by Edra Blixseth, OpSpring, Inc, AziMyth, Inc. Michael Sandoval,  
14 or Atigeo between July 2005 and the present.

15       **Request for Production No. 25:** Please provide every contract of any kind whatsoever,  
16 including but not limited to any technology licensing agreements, employment agreements, consulting  
17 agreements, technology sale agreements, or any kind of assignment of an interest in intellectual  
18 property between you, on one hand, and Edra Blixseth, OpSpring, Inc, AziMyth, Inc., Michael  
19 Sandoval, or Atigeo, on the other.

20       **Request for Production No. 26:** Please produce any and all documents, including but not  
21 limited to correspondence, emails (in native format), calendar notes, journal entries, or phone  
22 messages memorializing any communication between you or anyone acting on your behalf and Edra  
23 Blixseth, OpSpring, Inc, AziMyth, Inc. Michael Sandoval, or Atigeo, Inc.

24       **Request for Production No. 27:** Please produce any and all documents, including but not  
25 limited to correspondence, emails (in native format), calendar notes, journal entries, power point  
26 presentations, marketing materials, or phone messages memorializing any communication between  
27 you or anyone acting on your behalf and any customer or prospective customer of OpSpring, Inc., or  
28 AziMyth, Inc.

  
J. Stephen Peek, Esq.  
Nevada Bar Number 1758  
Jerry M. Snyder, Esq.  
Nevada Bar Number 6830  
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Telephone: (775) 327-3000  
Facsimile: (775) 786-6179  
*Attorneys for eTreppid Technologies, L.L.C. and  
Warren Trepp*

1 **PROOF OF SERVICE**

2 I, Paul D. Cain, declare:

3 I am employed in the **City of Reno, County of Washoe, State of Nevada**, by the law offices  
4 of Hale Lane Peek Dennison and Howard. My business address is: **5441 Kietzke Lane, Second**  
5 **Floor, Reno, Nevada 89511**. I am over the age of 18 years and not a party to this action. I am  
6 readily familiar with Hale Lane Peek Dennison and Howard's practice for collection of mail, delivery  
7 of its hand-deliveries and their process of faxes.

8 On November 19, 2007, I caused the foregoing **SECOND SET OF REQUESTS FOR**  
9 **PRODUCTION** to be:

10 X mailed to the following persons at the following addresses:

11 **Fax No. 775/829-1226**

12 [mgunderson@gundersonlaw.com](mailto:mgunderson@gundersonlaw.com)

13 Mark H. Gunderson, Ltd.

14 Mark H. Gunderson, Esq.

15 5345 Kietzke Lane, Suite 200

16 Reno, Nevada 89511

**Fax 310/500-3501**

[Tpham@linerlaw.com](mailto:Tpham@linerlaw.com); [dklar@linerlaw.com](mailto:dklar@linerlaw.com);

[rlapine@linerlaw.com](mailto:rlapine@linerlaw.com)

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Deborah A. Klar, Esq.

Ryan M. Lapine, Esq.

Liner Yankelevitz Sunshine & Regenstreif, LLP

1100 Glendon Avenue, 14<sup>th</sup> Floor

Los Angeles, CA 90024-3503

17 **Fax No. 202/616-8470**

18 [Carlotta.wells@usdoj.gov](mailto:Carlotta.wells@usdoj.gov)

19 Carlotta P. Wells, Esq.

20 Senior Trial Counsel

21 Federal Programs Branch

22 Civil Division – Room 7150

23 U.S. Department of Justice

24 20 Massachusetts Ave., NW

25 P.O. Box 883

26 Washington, DC 20044

**Fax No. 784-5181**

[Greg.addington@usdoj.gov](mailto:Greg.addington@usdoj.gov)

Greg Addington, Esq.

Assistant U.S. Attorney

100 W. Liberty Street, Suite 600

Reno, NV 89501

**Fax 202/616-8470**

[Raphael.gomez@usdoj.gov](mailto:Raphael.gomez@usdoj.gov)

Raphael O. Gomez, Esq.

Senior Trial Counsel

Federal Programs Branch

Civil Division – Room 6144

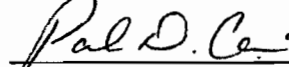
U.S. Department of Justice

20 Massachusetts Ave., N.W.

P.O. Box 883

Washington, D.C. 20044

27 I declare under penalty of perjury under the laws of the United States of America that the  
28 foregoing is true and correct, and that this declaration was executed on November 19, 2007.



Paul D. Cain

Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511



**EXHIBIT “F”**

**EXHIBIT “F”**

1 Mark H. Gunderson, Esq. (SBN: 2134)  
 Catherine A. Reichenberg, Esq. (SBN: 10362)  
 2 GUNDERSON LAW FIRM  
 5345 Kietzke Lane, Suite 200  
 3 Reno, Nevada 89511  
 Telephone: (775) 829-1222  
 4 Facsimile: (775) 829-1226

5 Deborah A. Klar, Esq. (SBN: CA 124750)  
 Teri T. Pham, Esq. (SBN: CA 193383)  
 6 Tuneen E. Chisolm, Esq. (SBN: CA 211741)  
 LINER YANKELEVITZ  
 7 SUNSHINE & REGENSTREIF LLP  
 1100 Glendon Avenue, 14th Floor  
 8 Los Angeles, California 90024-3503  
 Telephone: (310) 500-3500  
 9 Facsimile: (310) 500-3501  
 ADMITTED PRO HAC VICE

10 Attorneys for Plaintiffs  
 11 DENNIS MONTGOMERY, and the MONTGOMERY  
 FAMILY TRUST

12  
 13 **UNITED STATES DISTRICT COURT**  
 14 **DISTRICT OF NEVADA**  
 15

16 DENNIS MONTGOMERY and the  
 MONTGOMERY FAMILY TRUST,

17 Plaintiffs,

18 vs.

19 ETREPPID TECHNOLOGIES, LLC, WARREN  
 20 TREPP, and the UNITED STATES  
 DEPARTMENT OF DEFENSE,

21 Defendants.  
 22

23 AND RELATED CASES.  
 24

) Case No. 3:06-CV-00056-PMP-VPC  
 ) BASE FILE

) (Consolidated with Case No. 3:06-CV-  
 ) 00145-PMP-VPC)

) **THE MONTGOMERY PARTIES'**  
 ) **OBJECTIONS TO SECOND SET OF**  
 ) **REQUESTS BY ETREPPID**  
 ) **TECHNOLOGIES, LLC AND WARREN**  
 ) **TREPP FOR PRODUCTION OR**  
 ) **INSPECTION OF DOCUMENTS OR**  
 ) **TANGIBLE THINGS**

1 PROPOUNDING PARTY: eTREPPID TECHNOLOGIES, LLC AND WARREN  
2 TREPP

3 RESPONDING PARTIES: DENNIS MONTGOMERY AND THE MONTGOMERY  
4 FAMILY TRUST

5 SET NO.: TWO

6 Dennis Montgomery and the Montgomery Family Trust (collectively the "Montgomery  
7 Parties" or "Responding Parties") hereby respond to the Second Set Of Requests By eTrepid  
8 Technologies, LLC And Warren Trepp For Production Or Inspection Of Documents Or Tangible  
9 Things (the "Requests"). The documents and things to be produced in response to the Requests, as  
10 indicated herein, shall be made available for inspection and copying at the office of Liner  
11 Yankelevitz Sunshine & Regenstreif, LLP, located at 1100 Glendon Avenue, 14th Floor, Los  
12 Angeles, California 90024-3503, at a time that is mutually convenient for the parties.

13 **PRELIMINARY STATEMENT**

14 Responding Parties have not completed their investigation of the facts relating to this case  
15 and discovery is still in the early stages. The responses contained herein are based upon only such  
16 information and documents which are presently available to and specifically known to Responding  
17 Parties. It is anticipated that further discovery and investigation may lead to additional facts and/or  
18 identification of additional witnesses. Accordingly, the following responses are made without  
19 prejudice to Responding Parties' right to amend or supplement these responses, or to produce and  
20 rely upon evidence of subsequently discovered facts and/or witnesses.

21 To the extent applicable, Responding Parties' production of documents in response to these  
22 requests shall be made in compliance with the U.S. Protective Order, entered in this action on  
23 August 29, 2007, and subject to the Protective Order entered in this action on September 20, 2007.

24 **RESPONSES TO REQUESTS FOR PRODUCTION**

25 **REQUEST FOR PRODUCTION NO. 1:**

26 Please produce all documents that contain any source code, written by you or under your  
27 direction, that relates to the fields of data compression, pattern recognition, object tracking or  
28

1 anomaly detection (including, but not limited to, all or any part of a software program or  
2 algorithm).

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

4        Responding Parties object to this request on the grounds that: (i) the request is vague and  
5 ambiguous, particularly with respect to what is meant by source code in the fields of data  
6 compression, pattern recognition, object tracking, and anomaly detection; (ii) the request is  
7 overbroad, especially as to temporal scope; (iii) the request is unduly burdensome, particularly in  
8 light of the volume of documents that would be responsive to the request as written and the  
9 associated cost; (iv) the request calls for information which is neither relevant to the claims and  
10 defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible  
11 evidence; (v) the request is unnecessarily invasive of Responding Parties' right to maintain and  
12 protect its trade secrets; (vi) the request is unnecessarily invasive of Responding Parties'  
13 confidential business information and rights of privacy; (vii) the "Instructions" for the request  
14 purport to impose upon Responding Parties obligations which exceed Responding Parties'  
15 obligations under Rule 34 of the Federal Rules of Civil Procedure; and (viii) the request is  
16 harassing in that it is duplicative, verbatim, of Request No. 18 in eTreppid's first set of requests for  
17 production.

18 **REQUEST FOR PRODUCTION NO. 2:**

19        Please produce all documents that relate to any research and development efforts made, by  
20 you or by anyone working under your direction, in the fields of data compression, object tracking,  
21 pattern recognition, or anomaly detection (including, but not limited to, any and all notes,  
22 diagrams, laboratory materials, or source code).

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

24        Responding Parties object to this request on the grounds that: (i) the request is vague and  
25 ambiguous, particularly with respect to what is meant by "research and development efforts" "in  
26 the fields of data compression, pattern recognition, object tracking, and anomaly detection"; (ii) the  
27 request is overbroad, especially as to subject matter and temporal scope; (iii) the request is unduly  
28 burdensome, particularly in light of the volume of documents that would be responsive to the



1 request as written and the associated cost; (iv) the request calls for information which is neither  
2 relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to  
3 discovery of admissible evidence; (v) the request is unnecessarily invasive of Responding Parties'  
4 right to maintain and protect its trade secrets; (vi) the request is unnecessarily invasive of  
5 Responding Parties' confidential business information and rights of privacy; (vii) the "Instructions"  
6 for the request purport to impose upon Responding Parties obligations which exceed Responding  
7 Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (viii) the request is  
8 harassing in that it is duplicative, verbatim, of Request No. 19 in eTreppid's first set of requests for  
9 production.

10 **REQUEST FOR PRODUCTION NO. 3:**

11 Please produce all executable versions of any and all software, developed by you or by  
12 anyone working under your direction, which relates to the fields of data compression, object  
13 tracking, pattern recognition, or anomaly detection.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

15 Responding Parties object to this request on the grounds that: (i) the request is vague and  
16 ambiguous, particularly with respect to what is meant by "executable versions of any and all  
17 software" developed "in the fields of data compression, pattern recognition, object tracking, and  
18 anomaly detection"; (ii) the request is overbroad, especially as to subject matter and temporal  
19 scope; (iii) the request is unduly burdensome, particularly in light of the volume of documents that  
20 would be responsive to the request as written and the associated cost; (iv) the request calls for  
21 information which is neither relevant to the claims and defenses asserted in this action, nor  
22 reasonably calculated to lead to discovery of admissible evidence; (v) the request is unnecessarily  
23 invasive of Responding Parties' right to maintain and protect its trade secrets; (vi) the request is  
24 unnecessarily invasive of Responding Parties' confidential business information and rights of  
25 privacy; (vii) the "Instructions" for the request purport to impose upon Responding Parties  
26 obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of  
27 Civil Procedure; and (viii) the request is harassing in that it is duplicative, verbatim, of Request No.  
28 20 in eTreppid's first set of requests for production.

**REQUEST FOR PRODUCTION NO. 4:**

Please produce all documents that relate to the software that you transferred to eTreppid under the terms of the September 28, 1998 Contribution Agreement (including, but not limited to, all source code — whether in printed or electronic form — executable files, shop notes, laboratory notes, and any other memoranda).

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

Responding Parties object to this request on the grounds that: (i) the request is vague and ambiguous and overbroad, particularly with respect to what is meant by “relate to the software”; (ii) the request is unduly burdensome, particularly in light of the volume of documents that would be responsive to the request as written and the associated cost; (iii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iv) the request calls for information protected from disclosure by attorney-client privilege and/or the attorney work product doctrine; (v) the “Instructions” for the request purport to impose upon Responding Parties obligations which exceed Responding Parties’ obligations under Rule 34 of the Federal Rules of Civil Procedure; and (vi) the request is harassing in that it is duplicative, verbatim, of Request No. 22 in eTreppid’s first set of requests for production.

**REQUEST FOR PRODUCTION NO. 5:**

Please produce FOR INSPECTION by Jonathan Karchmer of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or PRODUCE forensic copies of, any original or copied electronic storage device, including any hard drive, or disk. This Request includes, but is not necessarily limited to, evidence stored in any electrical, electronic, or magnetic form, such as an electronic or magnetic storage device, including floppy diskettes, hard disks, ZIP disks, JAZ Drives, CD-ROMs, DVD-ROMs, optical disks, backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants, and printouts or readouts from any magnetic storage device.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

Responding Parties object to this request on the grounds that: (i) the request is vague and ambiguous and unintelligible in that it fails to identify with any degree of particularity the category of documents sought as required under Rule 34 of the Federal Rules of Civil Procedure; (ii) the request is overbroad; (iii) the request is unduly burdensome, particularly in light of the volume of documents that would be responsive to the request as written; (iv) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (v) the request is unnecessarily invasive of Responding Parties' right to maintain and protect its trade secrets; (vi) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; and (vii) the request calls for disclosure of information to Jonathan Karchmer of LECG, who is neither a party to this action nor an identified retained expert or consultant in this action; (viii) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (ix) the request ostensibly calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 6:**

Please produce FOR INSPECTION by Jonathan Karchmer of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or PRODUCE forensic copies of any original or copied electronic storage device, including any hard drive or disk, within your custody, control or possession that was seized by the Federal Bureau of Investigation ("FBI") and returned to you pursuant to File No. 295A-LV-39368. This Request includes, but is not necessarily limited to, evidence stored in any electrical, electronic, or magnetic form, such as an electronic or magnetic storage device, including floppy diskettes, hard disks, ZIP disks, JAZ Drives, CD-ROMs, optical disks, backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants, and printouts or readouts from any magnetic storage device that was seized by the FBI and returned to you.



1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

2 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
 3 (ii) the request calls for information which is neither relevant to the claims and defenses asserted in  
 4 this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is  
 5 unnecessarily invasive of Responding Parties' confidential business information and rights of  
 6 privacy; (iv) the "Instructions" for the request purport to impose upon Responding Parties  
 7 obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of  
 8 Civil Procedure; and (v) the request calls for disclosure of information to Jonathan Karchmer of  
 9 LECG, who is neither a party to this action nor an identified retained expert or consultant in this  
 10 action.

11 **REQUEST FOR PRODUCTION NO. 7:**

12 Please produce FOR INSPECTION by Jonathan Karchmer at a time mutually agreeable to  
 13 the parties, but in no event later than within the next thirty (30) days, at the law offices of Hale  
 14 Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or PRODUCE  
 15 forensic copies of all documents and electronically stored information, including, but not limited to,  
 16 all source code contained on all computer hard drives seized by the FBI and returned to you  
 17 pursuant to File No. 295A-LV-39.368, including, but not limited to, the following hard drives:  
 18 WD.3200, Serial No. WMAMR1066012; WD3200, Serial No. WMAMR1509932; WD3200,  
 19 Serial No. WMAMR1523649; WD3200, Serial No. WMAMR1537929; WD2500, Serial No.  
 20 WMAL71844911; WD3200, Serial No. WMAMR1538197; WD3200, Serial No.  
 21 WMAMR1538570; WD3200, Serial No. WMAMR1538581; WD3200, Serial No.  
 22 WMAMR1539825; WD3200, Serial No. WMAMR1539942; WD3200, Serial No.  
 23 WMAMR1543003; WD3200, Serial No. WMAMR1580666; WD3200, Serial No.  
 24 WMAMR1580671; WD3200, Serial No. WMAMR1612253; WD3200, Serial No.  
 25 WMAMR1624507; WD3200, Serial No. WMAMR1673681; Serial No.. WMAMR1420949; Serial  
 26 No. WMAD15194737; 120 GB Hard drive, Serial No. WMA8C1223396; 40 GB Hard drive, Serial  
 27 No. WMAD15256807; 40 GB Hard drive, Serial No. WCAD16502878; 40 GB Hard drive, Serial  
 28 No. WMAD16644525; 40 GB Hard drive, Serial No. WMAD15335294; 40 GB Hard drive, Serial



1 No. WCAD13691228; 120 GB Hard drive, Serial No. WMA863243070; Seagate 30.6 GB Hard  
2 drive, Serial No. .3CK028W3; Seagate 30.6 GB Hard drive, Serial No. 3CKOOXXY; and Maxtor  
3 .300 GB Hard drive, Serial No. L6OXL7PH.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

5 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
6 (ii) the request calls for information which is neither relevant to the claims and defenses asserted in  
7 this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is  
8 unnecessarily invasive of Responding Parties' confidential business information and rights of  
9 privacy; (iv) the "Instructions" for the request purport to impose upon Responding Parties  
10 obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of  
11 Civil Procedure; and (v) the request calls for disclosure of information to Jonathan Karchmer of  
12 LECG, who is neither a party to this action nor an identified retained expert or consultant in this  
13 action.

14 **REQUEST FOR PRODUCTION NO. 8:**

15 Please produce all versions, both drafts and final, of all eTreppid organizational agreements,  
16 including the Contribution Agreement, the Operating Agreement and amendments thereto.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

18 Responding Parties object to this request on the ground that the "Instructions" for the  
19 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
20 obligations under Rule 34 of the Federal Rules of Civil Procedure. Responding Parties further  
21 object to this request to the extent it seeks documents protected from disclosure by the attorney-  
22 client privilege and/or the attorney-work product doctrine.

23 **REQUEST FOR PRODUCTION NO. 9:**

24 Please produce all documents referencing or concerning your membership in eTreppid,  
25 including all correspondence between you, or anyone acting on your behalf, and eTreppid, Warren  
26 Trepp, Doug Frye, or any other manager or member of eTreppid.

27

28

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

Responding Parties object to this request on the grounds that: (i) the request is overbroad; (ii) the request is vague and ambiguous, particularly with respect to what is meant by “documents referencing or concerning your membership in eTreppid”; (iii) the request is unduly burdensome, particularly in light of the volume of documents that would be responsive to the request as written and the associated cost; (iv) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (v) the request is unnecessarily invasive of Responding Parties’ confidential business information and rights of privacy; (vi) the “Instructions” for the request purport to impose upon Responding Parties obligations which exceed Responding Parties’ obligations under Rule 34 of the Federal Rules of Civil Procedure; and (vii) the request calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 10:**

Please produce all documents referencing or concerning Copyright Registration Certificates for TXu00098728, TXu800098727, TXu00098699, TXu000119540, TXu117868, TXu0001992867, TXu0002034758, TXu0001983147, TXu0002000234, TXu000098731, TXu0002083750, and TXu0002095009.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

Responding Parties object to this request on the grounds that: (i) the request is vague and ambiguous with regard to what is “concerning” the Copyright Registration Certificates; (ii) the request is overbroad; (ii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is unnecessarily invasive of Responding Parties’ confidential business information and rights of privacy; (iv) the “Instructions” for the request purport to impose upon Responding Parties obligations which exceed Responding Parties’ obligations under Rule 34 of the Federal Rules of Civil Procedure; and (v) the request calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.

1 **REQUEST FOR PRODUCTION NO. 11:**

2 Please produce all Patents and Patent Applications identified as exhibits during the state  
3 court action hearing on eTreppid's motion for preliminary injunction.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

5 Responding Parties object to this request on the grounds that: (i) the "Instructions" for the  
6 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
7 obligations under Rule 34 of the Federal Rules of Civil Procedure; and (ii) the referenced exhibits  
8 were submitted by eTreppid, not Responding Parties, and therefore are already in eTreppid's  
9 possession, custody or control.

10 **REQUEST FOR PRODUCTION NO. 12:**

11 Please produce all documents relating to eTreppid's contracts and work with the private  
12 sector, including all contracts with non-governmental third-parties.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

14 Responding Parties object to this request on the grounds that: (i) the request is vague and  
15 ambiguous with respect to what is "relating to eTreppid's contracts and work"; (ii) the request calls  
16 for information protected from disclosure by attorney-client privilege and/or the attorney work  
17 product doctrine; and (iii) the "Instructions" for the request purport to impose upon Responding  
18 Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal  
19 Rules of Civil Procedure. Responding Parties further object to this request to the extent it may  
20 reasonably be construed to call for disclosure of Responding Parties' trade secrets to which  
21 eTreppid (excluding Responding Parties) has not had access.

22 **REQUEST FOR PRODUCTION NO. 13:**

23 Please produce all documents referencing or concerning any and all payments from  
24 eTreppid to Montgomery.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

26 Responding Parties object to this request on the grounds that: (i) the request is vague and  
27 ambiguous with respect to what is "concerning" payments from eTreppid to Montgomery; (ii) the  
28 request calls for information protected from disclosure by attorney-client privilege and/or the

1 attorney work product doctrine; and (iii) the "Instructions" for the request purport to impose upon  
2 Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the  
3 Federal Rules of Civil Procedure. Responding Parties further object to this request to the extent it  
4 may be reasonably be construed to be invasive of Responding Parties' privacy rights or to call for  
5 documents which are neither relevant to the claims and defenses asserted in this action, nor  
6 reasonably calculated to lead to discovery of admissible evidence.

7 **REQUEST FOR PRODUCTION NO. 14:**

8 Please produce all documents relating to eTreppid's contracts and work with the United  
9 States Government.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

11 Responding Parties object to this request on the grounds that: (i) the request is vague and  
12 ambiguous with respect to what is "relating to eTreppid's contracts and work with the United  
13 States Government"; (ii) the request calls for information protected from disclosure by attorney-  
14 client privilege and/or the attorney work product doctrine; and (iii) the "Instructions" for the  
15 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
16 obligations under Rule 34 of the Federal Rules of Civil Procedure. Responding Parties further  
17 object to this request to the extent it may reasonably be construed to call for disclosure of  
18 Responding Parties' trade secrets to which eTreppid (excluding Responding Parties) has not had  
19 access or disclosure of classified government information requiring security clearances which  
20 eTreppid does not have.

21 **REQUEST FOR PRODUCTION NO. 15:**

22 Please produce all documents referencing or concerning eTreppid's monthly invoices to the  
23 United States Government.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

25 Responding Parties object to this request on the grounds that: (i) the request is vague and  
26 ambiguous with respect to what is "concerning eTreppid's monthly invoices"; (ii) the request calls  
27 for information protected from disclosure by attorney-client privilege and/or the attorney work  
28 product doctrine; and (iii) the "Instructions" for the request purport to impose upon Responding



1 Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal  
2 Rules of Civil Procedure. Responding Parties further object to this request to the extent it may  
3 reasonably be construed to call for disclosure of Responding Parties' trade secrets to which  
4 eTreppid (excluding Responding Parties) has not had access or disclosure of classified government  
5 information requiring security clearances which eTreppid does not have.

6 **REQUEST FOR PRODUCTION NO. 16:**

7 Please produce for inspection all items seized from and returned to Montgomery in  
8 connection with the FBI search, seizure and return pursuant to File No, 295A-LV-39368.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

10 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
11 (ii) the request calls for information which is neither relevant to the claims and defenses asserted in  
12 this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is  
13 unnecessarily invasive of Responding Parties' confidential business information and rights of  
14 privacy; (iv) the request is harassing and, to the extent any such items are discoverable, duplicative  
15 of Request No. 7; and (v) the "Instructions" for the request purport to impose upon Responding  
16 Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal  
17 Rules of Civil Procedure.

18 **REQUEST FOR PRODUCTION NO. 17:**

19 Please produce all documents memorializing communications to and from eTreppid,  
20 regarding eTreppid's use and intended use of any intellectual property in which Montgomery  
21 asserts any ownership interest.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

23 Responding Parties object to this request on the ground that the "Instructions" for the  
24 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
25 obligations under Rule 34 of the Federal Rules of Civil Procedure. Responding Parties object to  
26 this request to the extent it may reasonably be construed to call for information protected from  
27 disclosure by attorney-client privilege and/or the attorney work product doctrine.

28

**REQUEST FOR PRODUCTION NO. 18:**

Please produce all documents (including e-mails and correspondence in native format) referencing any and all source code used by eTreppid from the execution of the Contribution Agreement on September 28, 1998 to the present time.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

Responding Parties object to this request on the grounds that: (i) the request is overbroad, particularly as to subject matter and temporal scope; (ii) the request is unduly burdensome, particularly in light of the volume of documents that would be responsive to the request as written; (iii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iv) the request is unnecessarily invasive of Responding Parties' right to maintain and protect its trade secrets; (v) the request calls for disclosure of classified government information requiring security clearances which eTreppid does not have; (vi) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (vii) the request calls for information protected from disclosure by attorney-client privilege and/or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 19:**

Please produce any and all e-mails contained in the e-mail account(s) provided to you by eTreppid, in their native format.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

Responding Parties object to this request on the grounds that: (i) the request is overbroad; (ii) the request is unduly burdensome, particularly in light of the volume of documents that would be responsive to the request as written and the associated cost; (iii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iv) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (v) the request calls for disclosure of classified government information requiring security clearances which eTreppid does

1 not have. Responding Parties further object to this request to the extent it may reasonably be  
 2 construed to call for information protected from disclosure by the attorney-client privilege.

3 **REQUEST FOR PRODUCTION NO. 20:**

4 Please produce all e-mails sent or received by Warren Trepp, Doug Frye, or any other  
 5 manager, member, or employee of eTreppid, in their native format.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

7 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
 8 (ii) the request is unduly burdensome, particularly in light of the volume of documents that would  
 9 be responsive to the request as written; (iii) the request calls for information which is neither  
 10 relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to  
 11 discovery of admissible evidence; (iv) the request calls for documents which are more readily in  
 12 the possession, custody or control of eTreppid; (v) the request calls for documents more readily  
 13 accessible from and more readily in the possession, custody or control of eTreppid and/or persons  
 14 other than Responding Parties; and (vi) the "Instructions" for the request purport to impose upon  
 15 Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the  
 16 Federal Rules of Civil Procedure.

17 **REQUEST FOR PRODUCTION NO. 21:**

18 Please produce all correspondence between you and Doug Frye, Warren Trepp, or any other  
 19 member, manager or employee of eTreppid, discussing, concerning or relating to the management  
 20 of eTreppid, budgeting for expenses, employment policies, or any like matters.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

22 Responding Parties object to this request on the grounds that: (i) the request is vague and  
 23 ambiguous with respect to what is meant by "any like matters"; (ii) the request is overbroad; (iii)  
 24 the request is unduly burdensome, particularly in light of the volume of documents that would be  
 25 responsive to the request as written and the associated cost; (iv) the request calls for information  
 26 which is neither relevant to the claims and defenses asserted in this action, nor reasonably  
 27 calculated to lead to discovery of admissible evidence; (v) the "Instructions" for the request purport  
 28 to impose upon Responding Parties obligations which exceed Responding Parties' obligations



under Rule 34 of the Federal Rules of Civil Procedure; and (vi) the request calls for documents more readily accessible from and more readily in the possession, custody or control of eTreppid and/or persons other than Responding Parties.

**REQUEST FOR PRODUCTION NO. 22:**

Please provide all documents which you have provided to NBC, the Wall Street Journal, or any other newspaper, television network, or other media outlet regarding Warren Trepp, eTreppid, Jim Gibbons, or any other aspect of the present litigation.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

Responding Parties object to this request on the grounds that: (i) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; and (ii) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

**REQUEST FOR PRODUCTION NO. 23:**

Please provide all correspondence between you or anyone acting on your behalf and reporter John Wilke of the Wall Street Journal, reporter David Johnston a the New York Times, or any other reporters which discusses, refers to, or relates to Trepp, eTreppid Jim Gibbons, or any other aspect of the present litigation.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

Responding Parties object to this request on the grounds that: (i) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; and (ii) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

**REQUEST FOR PRODUCTION NO. 24:**

Please provide all documents evidencing any payment made to you for any purpose whatsoever by Edra Blixseth, OpSpring, AziMyth, Inc., Michael Sandoval, or Atigeo between July 2005 and the present.



**RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

Responding Parties object to this request on the grounds that: (i) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (ii) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; and (iii) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

**REQUEST FOR PRODUCTION NO. 25:**

Please provide every contract of any kind whatsoever, including but not limited to any technology licensing agreements, employment agreements, consulting agreements, technology sale agreements, or any kind of assignment of an interest in intellectual property between you, on one hand, and Edra Blixseth, OpSpring, Inc, AziMyth, Inc., Michael Sandoval, or Atigeo, on the other.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

Responding Parties object to this request on the grounds that: (i) the request is overbroad; (ii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; and (iv) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

**REQUEST FOR PRODUCTION NO. 26:**

Please produce any and all documents, including but not limited to correspondence, emails (in native format), calendar notes, journal entries, or phone messages memorializing any communication between you or anyone acting on your behalf and Edra Blixseth, OpSpring, the, AziMyth, Inc. Michael Sandoval, or Atigeo, Inc.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

Responding Parties object to this request on the grounds that: (i) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor

1 reasonably calculated to lead to discovery of admissible evidence; (ii) the request is overbroad and  
2 unduly burdensome as written; (iii) the request is unnecessarily invasive of Responding Parties'  
3 confidential business information and rights of privacy; and (iv) the "Instructions" for the request  
4 purport to impose upon Responding Parties obligations which exceed Responding Parties'  
5 obligations under Rule 34 of the Federal Rules of Civil Procedure.

6 **REQUEST FOR PRODUCTION NO. 27:**

7 Please produce any and all documents, including but not limited to correspondence, emails  
8 (in native format), calendar notes, journal entries, power point presentations, marketing materials,  
9 or phone messages memorializing any communication between you or anyone acting on your  
10 behalf and any customer or prospective customer of OpSpring, Inc., or AziMyth.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

12 Responding Parties object to this request on the grounds that: (i) the request calls for  
13 information which is neither relevant to the claims and defenses asserted in this action, nor  
14 reasonably calculated to lead to discovery of admissible evidence; (ii) the request is overbroad and  
15 unduly burdensome as written; (iii) the request is unnecessarily invasive of Responding Parties'  
16 confidential business information and rights of privacy; and (iv) the "Instructions" for the request  
17 purport to impose upon Responding Parties obligations which exceed Responding Parties'  
18 obligations under Rule 34 of the Federal Rules of Civil Procedure.

19 **REQUEST FOR PRODUCTION NO. 28:**

20 Please produce all documents identified in your Fed. R. Civ. P. 26(a) Initial Disclosures,  
21 served on November 2, 2007.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

23 Responding Parties object to this request on the grounds that: (i) it is incomplete and does  
24 not comply with Rule 34 of the Federal Rules of Civil Procedure, in that it requires reference to  
25 something other than theses requests to determine the nature of the documents called for; and (ii)  
26 the "Instructions" for the request purport to impose upon Responding Parties obligations which  
27 exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

28

1 Responding Parties further object to this request to the extent it may reasonably be  
2 construed to call for documents which are: (i) neither relevant to the claims and defenses asserted  
3 in this action, nor reasonably calculated to lead to discovery of admissible evidence; (ii)  
4 government classified; (iii) subject to Responding Parties' rights of privacy; (iv) subject to  
5 Responding Parties' right to maintain and protect its trade secrets; and (v) protected from  
6 disclosure by the attorney-client privilege and/or the attorney work product doctrine.

7  
8 Dated: December 21, 2007

Respectfully submitted,

9 LINER YANKELEVITZ  
10 SUNSHINE & REGENSTREIF LLP

11 By: 

12 Deborah A. Klar  
13 Tameen E. Chisolm  
14 Attorneys for Plaintiffs  
15 DENNIS MONTGOMERY and the  
16 MONTGOMERY FAMILY TRUST  
17  
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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the LAW OFFICES OF LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP, and that on **December 21, 2007**, I caused to be served the within document described as **THE MONTGOMERY PARTIES' OBJECTIONS TO SECOND SET OF REQUESTS BY ETREPPID TECHNOLOGIES, LLC AND WARREN TREPP FOR PRODUCTION OR INSPECTION OF DOCUMENTS OR TANGIBLE THINGS** on the interested parties in this action as stated below:

J. Stephen Peek, Esq. Jerry M. Snyder, Esq. Hale Lane Peek Dennison and Howard 5441 Kietzke Lane Second Floor Reno, Nevada 89511 (775) 327-3000; 786-6179 - FAX <a href="mailto:speek@halelane.com">speek@halelane.com</a> ; <a href="mailto:jsnyder@halelane.com">jsnyder@halelane.com</a> Attorneys for Etreppid and Warren Trepp	Carlotta P. Wells, Sr. Trial Counsel U.S. Dept. of Justice Fed. Programs Branch Civil Division Room 7150 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-4522; 616-8470 - FAX E-mail: <a href="mailto:Carlotta.wells@usdoj.gov">Carlotta.wells@usdoj.gov</a> Attorneys for Department of Defense
---	---

Reid H. Weingarten, Esq. Brian M. Heberlig, Esq. Robert A. Ayers, Esq. Steptoe & Johnson, LLP 1330 Connecticut Avenue, N.W. Washington, D.C. 20036-1795 (202) 429-3000; (202) 429-3902 - FAX <a href="mailto:rweingarten@steptoe.com">rweingarten@steptoe.com</a> ; <a href="mailto:bhaberlig@steptoe.com">bhaberlig@steptoe.com</a> ; <a href="mailto:rayers@steptoe.com">rayers@steptoe.com</a> Attorneys for eTreppid and Warren Trepp	Ralph O. Gomez, Esq., Sr. Trial Counsel U.S. Dept. of Justice, Fed. Programs Branch Civil Division, Room 6144 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-1318; 616-8470 - FAX E-mail: <a href="mailto:raphael.gomez@usdoj.gov">raphael.gomez@usdoj.gov</a> Attorneys for Department of Defense
--	--

Greg Addington, AUSA U.S. DEPARTMENT OF JUSTICE 100 W. Liberty Street, Suite 600. Reno, Nevada 89501 E-mail: <a href="mailto:Greg.addington@usdoj.gov">Greg.addington@usdoj.gov</a> (775) 784-5181 - FAX Attorneys for Department of Defense	
--	--

☒ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in affidavit.

☒ [Federal] I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

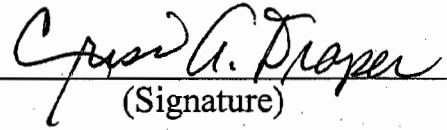
PROOF OF SERVICE



1 I declare under penalty of perjury under the laws of the State of California and  
2 the United States of America that the foregoing is true and correct.

3 Executed on December 21, 2007, at Los Angeles, California

4 Criss A. Draper  
5 (Type or print name)

6   
7 (Signature)

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PROOF OF SERVICE

**EXHIBIT “G”**

**EXHIBIT “G”**

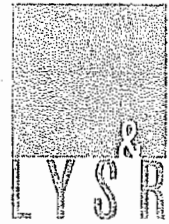
**LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP**

1100 Glendon Avenue | 14th Floor | Los Angeles, CA 90024.3503  
t. 310.500.3500 | f. 310.500.3501

TUNEEN E. CHISOLM

tchisolm@linerlaw.com

Direct Dial: 310-500-3499



February 12, 2008

VIA E-MAIL AND U.S. MAIL

Jerry M. Snyder  
Hale Lane Peek Dennison & Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

Re: Montgomery v. eTreppid  
Case No. CV-00056 PMP-VPC

Dear Jerry:

Enclosed please find documents (Bates numbered DM 000000318 - 000000405), which are being produced by the Montgomery Parties in connection with the above-referenced matter. The enclosed documents Bates numbered DM 000000347 - 000000404 are designated "Confidential" pursuant to the Protective Order filed on September 11, 2007.

Sincerely,

LINER YANKELEVITZ  
SUNSHINE & REGENSTREIF LLP

By

Tuneen E. Chisolm

TEC.cd

cc: Deborah Klar, Esq.  
Peter Bransten, Esq.

## **EXHIBIT “H”**

## **EXHIBIT “H”**



Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

J. Stephen Peek, Esq. (NV Bar #1758)  
Jerry M. Snyder, Esq. (NV Bar #6830)  
Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511  
Tel: (775) 327-3000  
Fax: (775) 786-6179

PILLSBURY WINTHROP SHAW PITTMAN, L.L.P.  
DAVID A. JAKOPIN, CA Bar No. 209950  
JONATHAN D. BUTLER, CA Bar No. 229638  
2475 Hanover Street  
Palo Alto, CA 94304-1114  
Telephone: (650) 233-4500  
Facsimile: (650) 233-4545  
(Admitted *pro hac vice* on March 7, 2006)

Attorneys for Defendants eTreppid Technologies,  
L.L.C. and Warren Trepp

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF NEVADA**

DENNIS MONTGOMERY, an individual; and  
MONTGOMERY FAMILY TRUST, a California  
Trust,

Plaintiff,

vs.

ETREPPID TECHNOLOGIES, L.L.C., a Nevada  
Limited Liability Company; WARREN TREPP,  
an individual; DEPARTMENT OF DEFENSE of  
the UNITED STATES OF AMERICA, and  
DOES 1 through 10,

Defendants

CASE NO. 3:06-CV-00056-BES-VPC

**FIRST SET OF INTERROGATORIES  
BY DEFENDANT ETREPPID  
TECHNOLOGIES, L.L.C. TO  
PLAINTIFFS DENNIS  
MONTGOMERY AND THE  
MONTGOMERY FAMILY TRUST**

PROPOUNDING PARTY: Defendant eTreppid Technologies, L.L.C.  
RESPONDING PARTIES: Plaintiffs Dennis Montgomery and The Montgomery  
Family Trust  
SET NUMBER: ONE

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant eTreppid Technologies,  
2 LLC ("eTreppid"), by and through its undersigned counsel, Hale Lane Peek Dennison and Howard,  
3 hereby requests that Plaintiffs Dennis Montgomery and The Montgomery Family Trust (collectively,  
4 "Plaintiffs") respond within thirty (30) days from service hereof to the following Interrogatories.

5 **INSTRUCTIONS**

6 1. Please respond to each interrogatory separately by setting forth the interrogatory  
7 followed by your response to the interrogatory.

8 2. The following rules of construction shall be applied herein: (1) the words "and" or "or"  
9 shall be construed conjunctively or disjunctively as necessary to make the requests for production  
10 inclusive rather than exclusive; (2) the singular includes the plural and vice-versa; and (3) the words  
11 "any," "all," "each" and "every" all include any, all, each and every.

12 3. The following interrogatories seek all information in YOUR possession, custody and  
13 control, wherever and in whomever located, and specifically includes all information in the possession,  
14 custody or control of YOUR agents, partners, officers, employees, attorneys, accountants,  
15 investigators, servants, representatives and each of them.

16 4. Where a date is requested and the actual date is not known, state the approximate date.

17 5. If YOU cannot respond to any of the following Interrogatories in full, after exercising  
18 due diligence to secure the information requested therein, please so state and respond to the extent  
19 possible, specifying any inability to respond and stating whatever information at all YOU may have  
20 concerning the portion to which you have responded.

21 6. These Interrogatories are deemed to continue so as to require a supplemental response if  
22 YOU obtain further information between the time YOUR response is served and the time of trial.  
23 YOUR responses to these Interrogatories must be amended in a timely fashion if YOU make  
24 additional or different contentions of fact which are not the same as those set forth in YOUR response  
25 or if YOUR response to any Interrogatory ceases to be a true or complete response between the time  
26 YOUR response is served and the time of trial.

27 7. If any claim is made that the information requested in these interrogatories is privileged  
28 or constitutes attorney work product such that YOU will not respond to the interrogatory, provide a

Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

1 written statement describing the factual basis of the purported privilege or claim of work product in  
2 sufficient detail to permit the hearing officer to adjudicate the validity of the claim.

3 8. If objections to these interrogatories are not served within thirty (30) days, absent an  
4 extension, said objections shall be waived.

### 5 DEFINITIONS

6 1. "COPYRIGHTS" means the following registered copyrights: TXu-98-018, TXu98-699,  
7 TXu-98-727, TXu-98-728, TXu-98-731, TXu-117-868, TXu-119-540, TX-1-983-147, TX-1-992-867,  
8 TX-2-000-234, TX-2-083-750, and TX-2-095-009.

9 2. "Defendants" refers herein to eTreppid Technologies, L.L.C. and Warren Trepp, either  
10 collectively or individually.

11 3. "DOCUMENT" or "DOCUMENTS" means all forms of tangible expression including  
12 any written, printed, recorded, pictorial, graphic or photographic material, however produced or  
13 reproduced, of each document YOU have knowledge of or which is in YOUR possession, custody or  
14 control as well as any matter attached thereto – including, but not limited to, the original or a copy of  
15 any handwriting, typewriting, printing, Photostatting, photographing, and every other means of  
16 recording upon any tangible thing and form of communicating or representation, including letters,  
17 words, pictures, sounds, symbols, combinations of them, and any data, information, or electronic  
18 media recorded in any form by or on a computer, floppy disk, compact disk, or similar device  
19 (including, but not limited to, software and source code), correspondence, memoranda (internal, inter-  
20 office and/or external), statements, agreements, e-mails (deleted and/or active), contracts, drafts,  
21 telegraphs, cables, notes, reports, studies, analyses, records, evaluations, charts, ledgers, checks, tables,  
22 tabulations, compilations, summaries, indices, abstracts, drawings, blueprints, labels, tags, pleadings,  
23 testimony, speeches, articles, books, pamphlets, brochures, magazines, newspapers, calendars, diaries,  
24 minutes, orders, photographs, moving pictures, microfilms, microfiche, tapes, recordings, computer  
25 records and disks, and any other matter which contains any form of communication or representation,  
26 and all drafts thereof.

27 4. "IDENTIFY" with reference to a natural PERSON means to state the name and last  
28 known residence address and business address and home and work telephone numbers for such person,

1 as well as the name and address of his present employer, the nature of his current employment and his  
2 employment relationship, if any, to YOU.

3 5. "IDENTIFY" with reference to a non-natural PERSON means to state the name and last  
4 known business address and telephone numbers for such company.

5 6. "IDENTIFY" with reference to a DOCUMENT means to state the date that it bears, its  
6 author(s), its specific format(s) (for example, a computer file in Microsoft Word format, or an email in  
7 HTML format), and any PERSON known to have seen, received or reviewed its contents. Whenever  
8 YOU are requested to "IDENTIFY" a DOCUMENT, YOU may submit the DOCUMENT itself in lieu  
9 of IDENTIFYING it. If any such DOCUMENT exists, but is no longer in YOUR possession or  
10 subject to YOUR control, state what disposition was made of it and its present location and custodian.  
11 If any such DOCUMENT once existed but no longer exists, state what disposition was made of it,  
12 when such disposition took place, and list each PERSON who has knowledge of such disposition.

13 7. "PERSON" or "PERSONS" means any natural person, corporation, cooperative,  
14 partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission or  
15 other entity.

16 8. "STATE" means to set forth fully and unambiguously every fact relevant to the answer  
17 called for by the Interrogatory, of which YOU have knowledge.

18 9. "YOU," "YOUR" and "YOURS" refer herein to plaintiff Dennis Montgomery, plaintiff  
19 The Montgomery Family Trust, Brenda Montgomery, and anyone acting or authorized to act on behalf  
20 of any and all of them – including any representatives, employees, agents, servants, or attorneys and  
21 others who are in possession or may have obtained information for you or on your behalf.

## 22 INTERROGATORIES

23 Interrogatory No. 1: STATE in detail all facts supporting YOUR contention that Defendants,  
24 either collectively or individually, have infringed any copyright owned by YOU (this includes, but is  
25 not limited to stating the registration numbers for each copyright and derivative work that YOU  
26 contend Defendants, either collectively or individually, have infringed) .

27 Interrogatory No. 2: IDENTIFY each PERSON with knowledge of any of the facts provided  
28 in your response to Interrogatory No. 1.



1        **Interrogatory No. 3:** IDENTIFY each PERSON that YOU contend created, developed, or  
2 wrote each DOCUMENT that YOU contend infringes any of YOUR copyrights and/or derivative  
3 works.

4        **Interrogatory No. 4:** IDENTIFY each portion of any DOCUMENT you contend is  
5 substantially similar to and any copyrighted work or derivative work identified in your response to this  
6 Interrogatory (this includes, but is not limited to, IDENTIFYING each DOCUMENT).

7        **Interrogatory No. 5:** STATE all damages which YOU have incurred as a result of any  
8 wrongful act on the part of Defendants, either collectively or individually. If YOU are unable to  
9 precisely calculate the damages that YOU have incurred, state (1) the manner in which such damages  
10 may be calculated, and (2) the information needed to perform a precise calculation of damages.

11       **Interrogatory No. 6:** IDENTIFY each PERSON with knowledge of any of the facts provided  
12 in your response to Interrogatory No. 5.

13       **Interrogatory No. 7:** STATE all facts supporting YOUR contention that Defendants, either  
14 collectively or individually, have wrongfully diluted YOUR ownership interest in eTreppid.

15       **Interrogatory No. 8:** IDENTIFY each PERSON with knowledge of any of the facts provided  
16 in your response to Interrogatory No. 7.

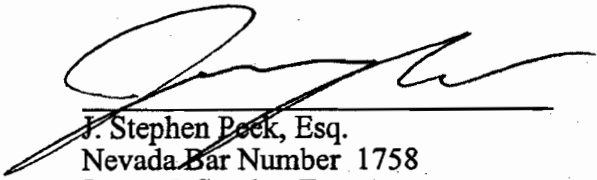
17       **Interrogatory No. 9:** STATE in detail all facts supporting YOUR allegation that "Trepp  
18 began to dilute Montgomery's share in eIntrepid [sic] and, used his majority interest in eIntrepid [sic]  
19 to obtain favorable treatment for himself as a majority shareholder at the expense of Montgomery."

20       **Interrogatory No. 10:** IDENTIFY each PERSON with knowledge of any of the facts  
21 provided in your response to Interrogatory No. 9.

Hale Lane Peck Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

1        **Interrogatory No. 11:** IDENTIFY each owner and/or claimant of the COPYRIGHTS and of  
2 any works that YOU contend are "derivative works" of the COPYRIGHTS, from 1980 to present.

3        Dated: July 25, 2006.

4  
5  
6          
7        J. Stephen Peek, Esq.  
8        Nevada Bar Number 1758  
9        Jerry M. Snyder, Esq.  
10       Nevada Bar Number 6830  
11       Hale Lane Peek Dennison and Howard  
12       5441 Kietzke Lane, Second Floor  
13       Reno, Nevada 89511  
14       Telephone: (775) 327-3000  
15       Facsimile: (775) 786-6179  
16       Attorneys for Defendants eTreppid Technologies,  
17       L.L.C. and Warren Trepp

Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

**PROOF OF SERVICE**

I, Gaylene Silva, declare:

I am employed in the **City of Reno, County of Washoe, State of Nevada**, by the law offices of Hale Lane Peek Dennison and Howard. My business address is: **5441 Kietzke Lane, Second Floor, Reno, Nevada 89511**. I am over the age of 18 years and not a party to this action

**HAND DELIVERY ONLY** I am readily familiar with Hale Lane Peek Dennison and Howard's practice for collection and delivery of its hand-deliveries. Such practice in the ordinary course of business provides for the delivery of all hand-deliveries on the same day requested.

On July 25, 2006, I caused the foregoing **FIRST SET OF INTERROGATORIES BY DEFENDANT ETREPPID TECHNOLOGIES, LLC TO PLAINTIFFS MONTGOMERY AND THE MONTGOMERY FAMILY TRUST** to be hand-delivered by providing a true and correct copy to Hale Lane Peek Dennison and Howard's runners with instructions to hand-deliver the same to:

**Fax No. 786-5044**

Ronald J. Logar, Esq.

Eric A. Pulver, Esq.

The Law Offices of Logar & Pulver

225 S. Arlington Avenue, Suite A

Reno, NV 89501

**MAIL ONLY** I am readily familiar with Hale Lane Peek Dennison and Howard's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On July 25, 2006, I served the foregoing **FIRST SET OF INTERROGATORIES BY DEFENDANT ETREPPID TECHNOLOGIES, LLC TO PLAINTIFFS MONTGOMERY AND THE MONTGOMERY FAMILY TRUST** by placing a true copy thereof in Hale Lane Peek Dennison and Howard's outgoing mail in a sealed envelope, addressed as follows:

**Fax No. 202/616-8470**

Carlotta P. Wells

Senior Trial Counsel

Federal Programs Branch

Civil Division - Room 7150

U.S. Department of Justice

20 Massachusetts Ave., NW

P.O. Box 883

Washington, DC 20044

**Fax No. 888-235-4279**

Michael J. Flynn, Esq.

Philip H. Stillman, Esq.

Flynn & Stillman

224 Bermingham Dr., Ste. 1A4

Cardiff, CA 92007

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on July 25, 2006.

  
Gaylene Silva

Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

## **EXHIBIT “I”**

## **EXHIBIT “I”**



1 Ronald J. Logar --State Bar No. 303  
 Eric Pulver--State Bar No. 7874  
 2 LAW OFFICE OF LOGAR & PULVER, PC  
 225 S. Arlington Ave., Suite A  
 3 Reno, NV 89501  
 Tel: (775) 786-5040; Fax: (775) 786-7544  
 4 Michael J. Flynn, Mass. State Bar No. 172780  
 Philip H. Stillman, California State Bar No. 152861  
 5 FLYNN & STILLMAN  
 224 Birmingham Drive, Suite 1A4  
 6 Cardiff, CA 92007  
 Tel: (858) 759-7000; Fax: (858) 759-0711  
 7 (*Application for Admission Pro Hac Vice*)  
 Attorneys for DENNIS MONTGOMERY and  
 8 MONTGOMERY FAMILY TRUST

9  
 10 **UNITED STATES DISTRICT COURT**  
 11 **FOR THE DISTRICT OF NEVADA**

12 DENNIS MONTGOMERY, ET AL., )

Case No: CV-N-06-00056-BES-VPC

13 Plaintiffs, )

Plaintiff Dennis Montgomery and the Montgomery  
 Family Trust's Answers to Defendant eTreppid  
 Technologies, LLC Interrogatories (Set One)

14 vs. )

15 ETREPPID TECHNOLOGIES, ET AL. )

16 Defendants. )

17  
18 **PRELIMINARY STATEMENT**

19 By this response, Dennis Montgomery and the Montgomery Family Trust (hereinafter collectively  
 20 referred to as Plaintiff) do not intend to waive, and do not waive, any objection at trial to admitting into  
 21 evidence all or a part of these responses, or the documents in connection with it. Rather, Plaintiff intends  
 22 to preserve, and does preserve, all objections to admitting into evidence all or a part of these responses, or  
 23 the documents in connection with it, including, without limitation, objections based on relevance,  
 24 foundation, authenticity, or privilege, as well as any and all objections.

25 These responses are based on the preliminary information currently known to Plaintiff and such  
 26 information that is within his possession, custody, or control. Discovery is preliminary and ongoing, and  
 27 he has not been able to complete discovery of defendant, its agents and employees. Plaintiff incorporates  
 28 this preliminary statement as well as the following general objections into each of his specific responses

1 to the individual Responses to the Interrogatories.

2 **GENERAL OBJECTIONS**

3 Plaintiff incorporates the following General Objections into each of his specific responses to the  
4 individual Responses to the Interrogatories.

- 5 1. Plaintiff objects to any interrogatory to the extent it seeks irrelevant information on the ground that  
6 discovery of such matter is not authorized by the Federal Rules of Civil Procedure or Local Rules.
- 7 2. Plaintiff objects to any interrogatory to the extent it seeks information or documents protected from  
8 disclosure by the attorney-client privilege, or the attorney work-product doctrine. This objection is made  
9 on the ground that there is no right to discover privileged documents or information.
- 10 3. Plaintiff objects to any interrogatory to the extent it purports to impose obligations upon him and  
11 his agents beyond those provided for in the Federal Rules of Civil Procedure, Local Rules, and other  
12 applicable law. This objection is made on the ground that discovery of such matter is not authorized by  
13 the Federal Rules of Civil Procedure or Local Rules.
- 14 4. Plaintiff objects to any interrogatory to the extent it requests private, confidential, proprietary,  
15 copyrighted, or trade secret information protected from disclosure by state or federal law, including, but  
16 not limited to, the state and federal constitutional rights to privacy, copyrights, trade secrets, as well as  
17 other applicable statutory or common-law privacy rights. This objection is made on the ground that there is  
18 no right to discover privileged documents or information.
- 19 5. Plaintiff objects to any interrogatory to the extent it purports to require information that is  
20 protected by privacy rights. This objection is made on the ground that there is no right to discover  
21 privileged documents or information.
- 22 6. Plaintiff generally objects to this set of interrogatories because the term "Software" is overly broad  
23 and ambiguous.
- 24 7. Plaintiff generally objects to this set of interrogatories because the term "You," "Your," and "Yours,"  
25 are overly broad and ambiguous.
- 26 8. For purposes of responding to these interrogatories, the term "Copyrights" refers to the individual  
27 and collective copyrights listed in the Complaint and itemized in Definition No. 1 of  
28 Defendants' interrogatories; but the term "Copyrights" is used interchangeably in these responses both

1 with regard to each individual copyright and to the collective copyrights depending on the context of each  
2 response. Because the case is at its preliminary stage, and because the Defendants have denied access to  
3 Plaintiff to all of it's books and records as required by law, and as required by the agreements of the  
4 parties, and because the Defendants have sole and exclusive access to all of the evidence and "documents"  
5 as defined in their interrogatories which are necessary to respond to these interrogatories, and because  
6 Defendants have not produced said evidence and documents pursuant to Rule 26, and/or as required by  
7 law, and/ or as required by the "Operating Agreements" of Defendants, Plaintiff generally objects to these  
8 interrogatories; and Plaintiff is not able at this time to respond to said interrogatories with the detailed  
9 responses requested. Plaintiff further objects on the grounds that the Defendant Trepp initiated a false and  
10 fraudulent criminal complaint against the Plaintiff which caused the FBI to conduct an illegal search and  
11 seizure of Plaintiff's home resulting in the illegal taking of Plaintiff's computers and various types of  
12 electronic media storage, documents and other materials, thereby preventing Plaintiff from accessing said  
13 materials need to respond to this discovery. Plaintiff will supplement these responses within a reasonable  
14 time after receiving full and complete access to all of the books and records of Defendants as he is entitled  
15 by law and agreements between the parties; and receiving back all of the items illegally seized by the FBI..

### 17 **RESPONSES TO SPECIAL INTERROGATORIES**

18 Plaintiff incorporates fully into each of the following specific responses the aforementioned  
19 "Preliminary Statement" and "General Objections," and more specifically incorporates "General Objection  
20 No. 8." No specific response shall be construed to waive any of the General Objections, including, but not  
21 limited to, General Objection No. 8, or any of the Statements contained in the "Preliminary Statement."

22  
23 **INTERROGATORY NO. 1:** STATE in detail all facts supporting YOUR contention that Defendants,  
24 either collectively or individually, have infringed any copyright owned by YOU (this includes, but is not  
25 limited to stating the registration numbers for each copyright and derivative work that YOU contend  
26 Defendants, either collectively or individually, have infringed).

### 27 **RESPONSE TO INTERROGATORY NO. 1:**

28 Defendants infringed each of the Copyrights by lying to the Plaintiff, and by defrauding the Plaintiff, and



1 by breaching oral and written agreements with the Plaintiff, and by violating the laws applying to  
2 copyrights and trade secrets, and by attempting to steal and/or convert the algorithms and source codes to  
3 the Copyrights, and/or to the derivatives of the Copyrights, and by generally engaging in fraudulent, and/or  
4 tortious, and/or illegal conduct regarding the Copyrights. The Defendants individually and collectively,  
5 and in collusion with individuals and agencies to be identified as discovery in this matter progresses,  
6 engaged in the foregoing generally described conduct, to be recited in greater detail as discovery  
7 progresses and as Defendants comply with Nevada law and comply with the Operating Agreements  
8 permitting Plaintiff access to the books and records of Defendants, in connection with the use of the  
9 algorithms and source codes in the Copyrights, and/or derivatives of said algorithms and source codes  
10 originating in the Copyrights on certain specified Government contracts now exclusively in the possession,  
11 custody and control of Defendants, including all "Documents," as defined by Defendants. Without said  
12 access to the books and records, and said "Documents" of Defendants as Plaintiff is absolutely entitled,  
13 Plaintiff cannot at this time recite the details of Defendants' infringement other than with a general  
14 statement as follows:

15 The Defendants and the Plaintiff agreed on or about September 28, 1998 and continuing to at least  
16 September 30, 2005 that Plaintiff exclusively owned and possessed "Software" that he had developed over  
17 a period of approximately 20 years prior to September, 1998, in connection with his career as a software  
18 designer and developer, which included the design and development of "Software" having multiple and  
19 varied uses and applications; and that Plaintiff, as of that period between September 28, 1998 and  
20 September 30, 2005, held all of the legal and proprietary indicia of ownership and possession in all of the  
21 "Software " that he had developed throughout his career, including but not limited to the legal indicia of  
22 ownership to the algorithms and source codes contained in the "Copyrights" *and all subsequent*  
23 *derivatives to the algorithms and source codes in said Copyrights.* On or about September 28, 1998 and  
24 continuing to at least September 30, 2005, Defendants specifically agreed that Plaintiff also owned and  
25 possessed multiple and varied and comprehensive "Software" programs not contained within the  
26 Copyrights and not conveyed to Defendants. On September 28, 1998, in the context of Plaintiff's  
27 ownership of the "Copyrights," and in the context of Plaintiff's ownership and possession of other  
28 multiple, varied and comprehensive "Software" programs, including ownership and possession of tens of



1 thousands of algorithms, executables and source codes, Plaintiff and the Defendants agreed in writing in a  
2 document called the "Contribution Agreement" that Plaintiff would ONLY convey to a partnership/LLC  
3 to be exclusively owned and controlled by Plaintiff and Defendant Trepp a specific and relatively small  
4 amount of his software described specifically in writing as "the software compression technology  
5 contained on that certain Software Compression Engine Development Program contained on CD  
6 No. 1"; and that no other software programs, or intellectual property, or algorithms, or executables or  
7 source codes were being conveyed to the partnership/LLC; and that the value of the software contained on  
8 said "CD No. 1" was fixed by agreement to be \$1,3000,000.00. As of the date of the agreement, Plaintiff  
9 relied upon Trepp's written and oral representations that his interest in the partnership/LLC would always  
10 be 50% of the outstanding shares in said company, as reflected by the fact that Plaintiff contributed the  
11 value of his software and Defendant Trepp contributed a fixed sum of money. At that time, in September,  
12 1998, Plaintiff also discussed with Trepp the sale to their partnership/LLC other components of Plaintiff's  
13 software programs for sums in the range of \$5,000,000.00, which Trepp rejected. For that reason, and  
14 others, Trepp's lawyer, Douglas Frye, explicitly drafted and embodied in the Contribution Agreement, the  
15 express limitation that the only software being conveyed was "contained on CD No. 1"; and that all other  
16 property, intellectual and otherwise, belonging to Plaintiff was excluded. Defendant Trepp was obligated  
17 by said agreement to pay said sum into the partnership/LLC on said date of September 28, 1998.  
18 Notwithstanding Plaintiff's repeated requests, Trepp has never allowed access to Plaintiff to the books and  
19 records of the partnership/LLC to verify that Trepp paid said sum on September 28, 1998.  
20 Pursuant to the "Contribution Agreement," the Plaintiff and Defendant Trepp also agreed that Plaintiff  
21 would serve as "Chief Technology Officer" in the capacity of an *independent contractor* who would  
22 contract with the partnership/LLC to develop software programs involving casino surveillance based on  
23 the software "contained on CD No. 1." Between September 28, 1998, and December 31, 2002. Plaintiff  
24 fulfilled his obligations as an independent contractor utilizing the software programs "contained on CD  
25 No. 1" in order to fulfill the casino surveillance business of the partnership/LLC. Between the filing of  
26 the original Copyright registrations in the 1980's and September 28, 1998, using his own computers and at  
27 his home-office and elsewhere, Plaintiff refined and created derivatives to the Copyrights having multiple  
28 and varied applications. Between September 28, 1998 and December 31, 2002, using his own computer at

1 his home-office, Plaintiff made further refinements to the algorithms and source codes originating within  
2 the Copyrights, and on other software programs Plaintiff was developing unrelated to the business of the  
3 partnership/LLC. Prior to December 31, 2002 as part of his fulfillment to eTreppid and in reliance upon  
4 the representations of Trepp and his lawyers, and in order to protect against Defendant Trepp's secretive,  
5 deceitful and manipulative operation of eTreppid, and in order to quantify and qualify the source codes  
6 contained on CD No. 1, Plaintiff, as an independent contractor filed various patents relating to the  
7 software on CD No. 1. On or about January to April, 2003, acting as the owner and exclusive possessor  
8 of the Copyrighted and derived source codes and algorithms, and while acting as an independent  
9 contractor, Plaintiff informed certain agencies of the Government that he owned and possessed certain  
10 software having potential military applications, particularly in connection with the terrorist threats against  
11 our country. At the same time, Plaintiff again offered to sell certain components and specific source codes  
12 to Defendant Trepp and to their partnership/LLC for the sum of \$5,000,000.00. Trepp again rejected the  
13 offer. In March, 2003, Plaintiff agreed with a certain Government agency to use one component of his  
14 exclusively owned software in a special Government contract; and agreed with Trepp and their partnership  
15 to license said software to the partnership/LLC, (hereinafter referred to as eTreppid). Plaintiff and Trepp  
16 and eTreppid agreed that Plaintiff would maintain complete, exclusive and absolute ownership, possession  
17 and control over the software and the algorithms and source codes used in certain special Government  
18 contracts which Plaintiff worked on with his Copyrights and derivatives containing his source codes and  
19 algorithms. Between March, 2003 and January 18, 2006, Plaintiff did, in fact, and as per agreement,  
20 maintain complete, exclusive, sole, and absolute ownership, possession and control of all of his source  
21 codes and algorithms used in the special Government contracts. Throughout this same period, Plaintiff  
22 did not permit any person at eTreppid to even have access to said algorithms and source codes as  
23 evidenced by his inclusion of "intrusion protocols" into the specific software programs owned by Plaintiff.  
24 These "intrusion protocols" were designed to prevent any person, other than Plaintiff, gaining access to  
25 the subject programs. IN FACT, NONE OF PLAINTIFF'S EXCLUSIVELY OWNED "SOURCE  
26 CODES" USED IN THE SPECIAL GOVERNMENT CONTRACTS WERE EVER ON THE PREMISES  
27 OF ETREPPID. Throughout this same period, by his conduct, by repeated statements and representations,  
28 and in other forms, Trepp agreed to Plaintiff's conditions of exclusive control, possession and ownership

1 of the subject source codes and algorithms.

2 In order to carry out his scheme to defraud Plaintiff and to steal Plaintiff's algorithms and source codes in  
3 Plaintiff's Copyrights and derivatives, between approximately March, 2003 and September, 2005,  
4 Defendant Trepp repeatedly employed a variety of false and fraudulent statements, representations,  
5 artifices and devices intentionally designed to infringe upon the copyrights and intentionally designed to  
6 deceive Plaintiff; and to lull him into the belief and acceptance of Defendant Trepp's promises and  
7 representations. The false and fraudulent statements were designed to induce Plaintiff to license and/or  
8 sell the copyrighted source codes and derivatives to eTreppid and to the Government. The false  
9 statements and fraudulent representations are included but not limited to the following statements  
10 expressed as general statements containing the general meaning of the expressions used by Defendant  
11 Trepp, i.e., "words to the effect of" unless otherwise quoted: (1) eTreppid will "license your software" and  
12 "pay a license fee equal to at least 50% to 75% of the gross amount received from the Government"  
13 depending on which contract the parties were discussing, "until we have the Government sucked in and  
14 they can't do without it" and then we will "close in for the kill" and "sell it for hundreds of millions."  
15 Trepp also repeatedly stated that eTreppid will have to calculate its costs and expenses in connection with  
16 each contract and if those expenses and costs are below certain ranges in connection with certain specified  
17 contracts, Plaintiff's share above 50% to 75% of the gross amount received would increase proportionately  
18 "until a final deal is made." In connection with these types of repeated promises, upon information and  
19 belief, Trepp repeatedly lied about when he was receiving Government checks on certain contracts; how  
20 much he was receiving; what the expenses were; what amounts and expenses were allocated to specific  
21 contracts; how eTreppid and the Government were doing the accounting; what other expenses and costs  
22 eTreppid was incurring which were unrelated to the contracts but to other business of eTreppid and which  
23 "adversely impacted Plaintiff's membership profits in eTreppid" which had to be "accounted for before a  
24 "final payment" or "a final deal" could be made. Plaintiff will require access to all of the books and  
25 records of Trepp and eTreppid before providing a more detailed response with respect to exactly how on  
26 the books and records of eTreppid Trepp accounted for Plaintiff's contributions, licensing fees, expenses  
27 etc. Notwithstanding Trepp's continued representations relied upon by Defendant, the books and records  
28 were never made available to him based on a multitude of excuses proffered by Trepp.; (2) Trepp also



1 stated that "once we have the Government hooked," eTrepp and Trepp will negotiate a "deal" with the  
2 Government to sell parts of "your technology" to the Government for "Five Hundred Million Dollars" and  
3 we will "get a billion dollar bond to back up the deal." Trepp repeatedly stated that Plaintiff's share will  
4 be "at least 50% of the gross" "but anything over that will require calculating your interest in eTreppid."  
5 Trepp repeatedly promised to "sit down" with Plaintiff and the "bookkeeper" and "the accountant" and get  
6 "everything worked out before the "final sale," and "to catch up on the numbers." Prior to September,  
7 2005, Trepp repeatedly said "to just keep processing" the "output" the Government needed in the "war on  
8 terror," mostly in connection with Plaintiff's "intercepts" of al Qaeda communications, and "it was a  
9 problem of timing," so "just keep processing until we get the deal done." During much of the "processing"  
10 period, Plaintiff was working 12 to 18 hour days, and had little time, energy or opportunity to deal with the  
11 business aspects of eTreppid. He relied upon the good faith and explicit representations of Trepp as his  
12 partner. In September - October, 2005, Trepp advised Plaintiff to stop all work on a certain Government  
13 contract so that he could "force them to buy it for Five Hundred Million"; and that he needed Plaintiff to  
14 bring the "source codes to eTreppid" to put them in escrow." Trepp also said he was in the middle of  
15 doing the final calculations on how much Plaintiff was owed, and that he had to calculate if Plaintiff had  
16 been diluted in his ownership interest in eTreppid because of the investments of others, including Milken,  
17 and the "deals" Trepp had "engineered" with others, including Wayne Prim; and that depending on  
18 Plaintiff's dilution, it might affect the "final payment amount" relating to the sale of the technology.  
19 Plaintiff informed Trepp that he thought that there were "serious national security concerns" involving the  
20 safety of potentially millions of Americans if he stopped "processing", that he no longer trusted Trepp, that  
21 Trepp had never paid him his license fees, that there had never been any legitimate dilution, that he was  
22 owed millions of dollars, that he wanted immediate access to the books and records, and that he would  
23 never bring the source codes to eTreppid and would never allow anyone at eTreppid to have access to his  
24 source codes. At first, Trepp promised to make "everything right" as soon as the "deal was done." But  
25 when Plaintiff questioned Trepp about the involvement of Michael Milken in eTreppid and how much he  
26 was owed, and the pay-offs to Congressman James Gibbons, and the involvement of Ronald Bath, an Air  
27 Force General and "consultant" to Trepp, and how much Bath was owed, and how Trepp could claim  
28 Plaintiff had been diluted when he was owed millions of dollars, Trepp became extremely hostile and



1 threatened to "bury" Plaintiff by using his "political muscle" with Gibbons and Bath. Trepp also reminded  
2 Plaintiff that he was a lifelong friend of "Richie Bonanno" and that they were "not people to fuck with."  
3 Having observed some of Trepp's fraudulent practices including the payment of approximately \$100,000  
4 to Gibbons on a cruise ship in addition to the payment of an additional \$100,000 to Gibbons in \$10,000  
5 increments through various entities belonging to Trepp, and having watched Trepp give Gibbons  
6 thousands of dollars when they were gambling together, and having listened to Trepp recite how he had  
7 lied, defrauded, and manipulated the securities industry and falsified evidence in various SEC  
8 investigations, (mostly when Trepp was heavily intoxicated), Plaintiff became concerned for his life and  
9 the security of his property, including, but not limited to, the source codes and algorithms used in certain  
10 special Government contracts.

11 When Defendants were unable to steal Plaintiff's source codes and algorithms while Plaintiff was working  
12 as an independent contractor at eTreppid, after his departure, Defendants in collusion with certain  
13 individuals within the Government sought to steal them by other illegal means, including an illegal search  
14 and seizure of Plaintiff's home and storage facility. As a result of said illegal search and seizure, Plaintiff  
15 is unable to access his computers and other materials necessary to answer this interrogatory more fully at  
16 this time.

17 All of the foregoing facts relate to Plaintiff's contention that Defendants infringed upon Plaintiff's  
18 Copyrights and derivatives. Plaintiff more specifically incorporates herein General Objection No. 8.

19  
20 **INTERROGATORY NO. 2:** IDENTIFY each PERSON with knowledge of any of the facts provided in  
21 your response to Interrogatory No. 1.

22 **RESPONSE TO INTERROGATORY NO. 2:**

23 See RESPONSE to No. 1, and General Objection No. 8 which Plaintiff incorporates herein. Plaintiff will  
24 supplement this response as necessary in the detail requested when he has access to all of the books and  
25 records of eTreppid. Until then, Plaintiff states that in addition to the individuals identified in response to  
26 No. 1, all employees, consultants, independent contractors, lawyers, agents and representatives of eTreppid  
27 and Defendant Trepp, and in Trepp's various companies and entities, and in the US Government, and its  
28 agents and independent contractors, who participated in any of the various contracts with the Government

1 and/or its agents and contractors, may have knowledge of the facts recited in Response No. 1. The  
2 addresses for said individuals are in the possession of Defendants, and Plaintiff requires access to the  
3 books and records of Trepp and eTreppid in order to provide them. In addition to the above.  
4

5 **INTERROGATORY No. 3:** IDENTIFY each PERSON that YOU contend created, developed, or wrote  
6 each DOCUMENT that YOU contend infringes any of YOUR copyrights and/or derivative works.

7 **RESPONSE TO INTERROGATORY NO. 3:**

8 See RESPONSES to Interrogatories Numbers 1 and 2, and General Objection No. 8 which Plaintiff  
9 incorporates herein. Until Plaintiff obtains access to all of the books and records of eTreppid, and access  
10 to his computers and other materials, he cannot provide further details at this time.  
11

12 **INTERROGATORY NO. 4:** IDENTIFY each portion of any DOCUMENT you contend is substantially  
13 similar to and any copyrighted work or derivative work identified in your response to this Interrogatory  
14 (this includes, but is not limited to, IDENTIFYING each DOCUMENT)

15 **RESPONSE TO INTERROGATORY NO. 4**

16 See RESPONSE to Interrogatory No. 3, which Plaintiff incorporates herein. To Plaintiff's knowledge all  
17 of the "documents" necessary to answer this interrogatory are in the custody, possession and control of  
18 Defendants.  
19

20 **INTERROGATORY NO. 5:** STATE all damages which YOU have incurred as a result of any wrongful  
21 act on the part of Defendants, either collectively or individually. If YOU are unable to precisely calculate  
22 the damages that YOU have incurred, state (1) the manner in which such damages may be calculated, and  
23 (2) the information needed to perform a precise calculation of damages.

24 **RESPONSE TO INTERROGATORY NO. 5**

25 See RESPONSES to Interrogatories No. 1 through 4, which Plaintiff incorporates herein. In order to fully  
26 respond to this interrogatory, Plaintiff will require each Government contract, all amounts paid on each  
27 contract, when they were paid, all of the accounting books and records of eTreppid, and all  
28 communications of every nature and description which Defendants have had with the Government from

January, 2003 to the present, including, but not limited to, all of their communications with Ronald Bath, James Gibbons and Paul Haraldsen.

**INTERROGATORY NO. 6:** IDENTIFY each PERSON with knowledge of any of the facts provided in your response to Interrogatory No. 5

**RESPONSE TO INTERROGATORY NO. 6**

See RESPONSE to Interrogatory No. 5, which Plaintiff incorporates herein.

**INTERROGATORY NO. 7:** STATE all facts supporting YOUR contention that Defendants, either collectively or individually, have wrongfully diluted YOUR ownership interest in eTreppid

**RESPONSE TO INTERROGATORY NO. 7**

See RESPONSE to Interrogatory No. 1 and General Objection NO. 8 which Plaintiff incorporates herein.

Plaintiff will require full and complete access to all of the books and records of eTreppid and to all of the materials illegally seized by the FBI at the behest of Trepp before he can fully respond to this interrogatory. In general, Plaintiff received a letter and/or Notice in March, 2006 stating that he had a then-current ownership interest in eTreppid of less than 9%. Plaintiff owned 50% of eTreppid as of September 28, 1998 and relied upon Trepp's representations that the contribution of his software protected him against dilution.. Notwithstanding his repeated requests, Plaintiff has never been given access to the books and records of eTreppid in order to verify any contributions by Trepp, and/ or any of the "investments" of Trepp's friends, contacts, cronies or disinterested investors. In addition to the foregoing demanded access to the books and records of eTreppid, Plaintiff will require full and complete access to all of the bank accounts of eTreppid, and production of all of the bank statements cancelled checks etc. involving the investment of any funds by any individual claiming to be an investor in eTreppid. Plaintiff will also require deposition discovery of each of said investors causing his alleged dilution and, of course, the depositions of Trepp, Douglas Frye, James Gibbons, Ronald Bath, and all of eTreppid's bookkeepers and accountants in order to fully respond to this interrogatory.

**INTERROGATORY NO. 8:** IDENTIFY each PERSON with knowledge of any of the facts provided in



1 your response to Interrogatory No. 7.

2 **RESPONSE TO INTERROGATORY NO. 8**

3 See RESPONSE to Interrogatory No. 7, which Plaintiff incorporates herein.

4  
5 **INTERROGATORY NO. 9:** STATE in detail all facts supporting YOUR allegation that "Trepp began to  
6 dilute Montgomery's share in eIntrepid [sic] and, used his majority interest in eIntrepid [sic] to obtain  
7 favorable treatment for himself as a majority shareholder at the expense of Montgomery."

8 **RESPONSE TO INTERROGATORY NO. 9**

9 See RESPONSES to Interrogatories NO. 1 and No. 7, which Plaintiff incorporates herein.

10  
11 **INTERROGATORY NO. 10:** IDENTIFY each PERSON with knowledge of any of the facts provided in  
12 your response to Interrogatory No. 9

13 **RESPONSE TO INTERROGATORY NO. 10**

14 See RESPONSE to Interrogatory No. 9 which Plaintiff incorporates herein.

15  
16 **INTERROGATORY NO. 11:** IDENTIFY each owner and/or claimant of the COPYRIGHTS and of any  
17 works that YOU contend are "derivative works" of the COPYRIGHTS, from 1980 to present.

18 **RESPONSE TO INTERROGATORY NO. 11**

19 Dennis Montgomery and the Montgomery Family Trust. Defendants have the addresses of these owners.

20  
21 Respectfully submitted,

22 /s/

23 August \_\_, 2006

24 Michael J. Flynn, Attorney for Dennis Montgomery and the  
25 Montgomery Family Trust  
26  
27  
28



**CERTIFICATE OF SERVICE**

I, Lezlie M. Lucas, declare: I am an employee in the City of Reno, County of Washoe, State of Nevada, employed by the Law Office of Logar & Pulver, PC, located at 225 S. Arlington Avenue, Suite A, Reno, NV 89501. I am over the age of 18 years and not a party to this action.

I am readily familiar with the Law Office of Logar & Pulver's practice for the collection of mail, delivery of its hand-deliveries, their process of facsimile's and the practice of mailing.

On 27th August 2006 I caused the foregoing document to be delivered to the following persons and/or entities:

Sent Via US Regular Mail:

*Facsimile - 786-6179*

Mr. Jerry M. Snyder, Esq.  
Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511

Sent Via US Regular Mail:

Stephen J. Peek, Esq.  
Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511

Sent Via US Regular Mail:

Pillsbury Winthrop Shaw Pittman, L.L.P.  
David A. Jakopin, Esq.  
2475 Hanover Street  
Palo Alto, CA 94304-1114

Sent Via US Regular Mail:

Pillsbury Winthrop Shaw Pittman, L.L.P.  
Jonathan D. Butler, Esq.  
2475 Hanover Street  
Palo Alto, CA 94304-1114

Sent Via US Regular Mail:

Daniel G. Bogden  
United States Attorney  
100 West Liberty Street, Suite 600  
Reno, NV 89501

Sent Via US Regular Mail:

Greg Addington  
Assistant United States Attorney  
100 W. Liberty Street, Suite 600  
Reno, NV 89501

Sent Via US Regular Mail:

Civil Process Clerk, United States Attorney for the District of

1 Nevada;  
2 100 W. Liberty Street, Suite 600  
3 Reno, NV 89501

4 Sent Via US Regular Mail:

5 Karen Richardson  
6 Federal Programs Branch  
7 Civil Division, Room 6126  
8 U.S. Department of Justice  
9 200 Massachusetts Avenue, N.W.  
10 P.O. Box 883  
11 Washington DC 20044

12 Sent Via US Regular Mail:

13 Donald H. Rumsfeld  
14 Department of Defense of the U. S. of America  
15 1000 Defense Pentagon  
16 Washington, DC 20301-1000

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/S/LML

Lezlie M. Lucas, Notary Public  
Legal Assistant to the  
Law Office of Logar & Pulver, PC

**VERIFICATION**

I, Dennis Montgomery, am the plaintiff in this action. I have read my answers to Defendant eTreppid Technologies, LLC's Interrogatories, (set one). I am not a lawyer and only have a general understanding of the objections, however, all of the answers are true and accurate to the best of my knowledge.

Signed under the penalty of perjury this 20th day of August 2006.

  
Dennis Montgomery

Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

J. Stephen Peek, Esq. (NV Bar #1758)  
Jerry M. Snyder, Esq. (NV Bar #6830)  
Adam G. Lang, Esq. (NV Bar #10117)  
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Reid H. Weingarten, Esq. (D.C. Bar #365893) (Admitted Pro Hac Vice June 15, 2007)  
Brian M. Heberlig, Esq. (D.C. Bar #455381) (Admitted Pro Hac Vice June 15, 2007)  
Robert A. Ayers, Esq. (D.C. Bar #488284) (Admitted Pro Hac Vice June 15, 2007)  
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1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036-1795  
Telephone: (202) 429-3000

Attorneys for eTreppid Technologies, L.L.C. and  
Warren Trepp

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF NEVADA**

DENNIS MONTGOMERY, an individual; and  
MONTGOMERY FAMILY TRUST, a California  
Trust,

Plaintiff,

vs.

ETREPPID TECHNOLOGIES, L.L.C., a Nevada  
Limited Liability Company; WARREN TREPP,  
an individual; DEPARTMENT OF DEFENSE of  
the UNITED STATES OF AMERICA, and  
DOES 1 through 10,

Defendants

Case No. 3:06-CV-00056-PMP-VPC  
Base File

3:06-CV-00145-PMP-VPC

**SECOND SET OF REQUESTS BY  
ETREPPID TECHNOLOGIES, L.L.C.  
AND WARREN TREPP FOR  
PRODUCTION OR INSPECTION OF  
DOCUMENTS OR TANGIBLE  
THINGS**

AND RELATED CASE(S)

PROPOUNDING PARTY:

eTreppid Technologies, L.L.C. and Warren Trepp

RESPONDING PARTIES:

Dennis Montgomery and The Montgomery Family Trust

SET NUMBER:

TWO



Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, eTreppid Technologies, L.L.C. and Warren Trepp ("eTreppid"), by and through their undersigned counsel, Hale Lane Peek Dennison and Howard, hereby request that Dennis Montgomery and The Montgomery Family Trust (collectively, "Montgomery") produce the documents and things described below for inspection and copying by counsel for eTreppid. As requested by Rule 34(a), Montgomery must produce all documents for inspection and copying either as they are kept in the ordinary course of business or segregated according to each request and must be produced within thirty (30) days of this request. Montgomery shall produce such documents and things for inspection and copying to Jerry Snyder at the office of Hale Lane Peek Dennison and Howard, located at 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511, unless otherwise set forth in the request.

#### INSTRUCTIONS

1. The following rules of construction shall be applied herein: (1) the words "and" or "or" shall be construed conjunctively or disjunctively as necessary to make the requests for production inclusive rather than exclusive; (2) the singular includes the plural and vice-versa; and (3) the words "any," "all," "each" and "every" all include any, all, each and every.

2. The following requests seek all DOCUMENTS in YOUR possession, custody or control, wherever located, and specifically includes all DOCUMENTS in the possession, custody or control of YOUR agents, partners, officers, employees, attorneys, accountants, investigators, representatives and each of them. A DOCUMENT is deemed to be in YOUR possession, custody or control if it is in YOUR physical custody, or if it is in the physical custody of any other PERSON and YOU (i) own such DOCUMENT in whole or in part, (ii) have a right by contract, statute or otherwise, to use, inspect, examine or copy such DOCUMENT on any terms, (iii) have an understanding, express or implied, that YOU may use, inspect, examine or copy such DOCUMENT on any terms, or (iv) have, as a practical matter, been able to use, inspect, examine or copy such DOCUMENT when YOU sought to do so.

3. For each DOCUMENT that YOU decline to make available for inspection and copying on the grounds of privilege or the attorney work product rule, provide the following information:

(a) State the date on which the DOCUMENT was created,

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5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

- 1 (b) IDENTIFY the author of the document,
- 2 (c) State the title of the DOCUMENT,
- 3 (d) Briefly describe the nature and contents of the DOCUMENT,
- 4 (e) IDENTIFY each PERSON or entity that received a copy of the DOCUMENT or
- 5 to whom the DOCUMENT or its contents were disclosed,
- 6 (f) Identify the privilege or rule that YOU contend protects the DOCUMENT from
- 7 disclosure, and
- 8 (g) Identify each fact on which YOU base YOUR contention that the privilege or
- 9 rule identified in YOUR response to section (e) of this instruction is applicable.
- 10 4. YOU shall produce only one copy of each DOCUMENT requested herein; however,
- 11 each non-identical version of any DOCUMENT shall constitute a separate document.
- 12 5. If these requests for production cannot be responded to in full, respond to the extent
- 13 possible, specify the reason for YOUR inability to respond to the remainder and state whatever
- 14 information or knowledge YOU have regarding the portion to which YOU have not responded.
- 15 6. Where a date is requested and the actual date is not known, state the approximate date.

#### 16 DEFINITIONS

- 17 1. "COMMUNICATION" includes all conversations, written, oral, or electronic, including
- 18 meetings, memoranda, correspondence, conferences, and any other means or manner by which
- 19 information is or was conveyed to or received from others.
- 20 2. "DOCUMENT" or "DOCUMENTS" means all forms of tangible expression including any
- 21 written, printed, recorded, pictorial, graphic or photographic material, or electronically stored
- 22 information, however produced or reproduced, of each document YOU have knowledge of or which is
- 23 in YOUR possession, custody or control as well as any matter attached thereto – including, but not
- 24 limited to, the original or a copy of any handwriting, typewriting, printing, photostating,
- 25 photographing, and every other means of recording upon any tangible thing and form of
- 26 communicating or representation, including letters, words, pictures, sounds, symbols, combinations of
- 27 them, and any data, information, or electronic media recorded in any form by or on a computer, floppy
- 28 disk, compact disk, or similar device (including, but not limited to, software and source code),

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Reno, Nevada 89511

1 correspondence, memoranda (internal, inter-office and/or external), statements, agreements, e-mails  
2 (deleted and/or active), contracts, drafts, telegraphs, cables, notes, reports, studies, analyses, records,  
3 evaluations, charts, ledgers, checks, tables, tabulations, compilations, summaries, indices, abstracts,  
4 drawings, blueprints, labels, tags, pleadings, testimony, speeches, articles, books, pamphlets,  
5 brochures, magazines, newspapers, calendars, diaries, minutes, orders, photographs, moving pictures,  
6 microfilms, microfiche, tapes, recordings, computer records and disks, and any other matter which  
7 contains any form of communication or representation, and all drafts thereof. All electronically stored  
8 information is to be produced in native format, including all metadata.

9 3. "FORENSIC COPY" shall mean "an exact copy of the entire physical storage media (hard  
10 drive, CD-ROM, DVD-ROM, tape, etc.), including all active and residual data and unallocated space  
11 on the media."

12 4. "IDENTIFY" with reference to a natural PERSON means to state the name and last known  
13 residence address and business address and home and work telephone numbers for such person, as well  
14 as the name and address of his present employer, the nature of his current employment and his  
15 employment relationship, if any, to YOU.

16 5. "IDENTIFY" with reference to a non-natural PERSON means to state the name and last  
17 known business address and telephone numbers for such company.

18 6. "IDENTIFY" with reference to a DOCUMENT means to state the date that it bears, its  
19 author(s), its specific format(s) (for example, a computer file in Microsoft Word format, or an email in  
20 HTML format), and any PERSON known to have seen, received or reviewed its contents. Whenever  
21 YOU are requested to "IDENTIFY" a DOCUMENT, YOU may submit the DOCUMENT itself in lieu  
22 of IDENTIFYING it. If any such DOCUMENT exists, but is no longer in YOUR possession or  
23 subject to YOUR control, state what disposition was made of it and its present location and custodian.  
24 If any such DOCUMENT once existed but no longer exists, state what disposition was made of it,  
25 when such disposition took place, and list each PERSON who has knowledge of such disposition.

26 7. "IDENTIFY" with reference to a COMMUNICATION means to state: the identity of each  
27 PERSON who made each COMMUNICATION; the identity of each PERSON to whom each  
28 COMMUNICATION was made; the identity of each PERSON who was present during each



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1 COMMUNICATION or who received a copy of each COMMUNICATION; and a complete  
2 description of the substance and content of the COMMUNICATION.

3 8. "NATIVE FORMAT" means the original electronic, audio, and/or video format in which a  
4 particular document was created (*e.g.* Microsoft Word, Microsoft Outlook, MP3, etc.)

5 9. "PERSON" or "PERSONS" means any natural person, corporation, cooperative,  
6 partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission or  
7 other entity.

8 10. "RELATED TO," "RELATE TO" and "RELATING TO" shall include, without limitation,  
9 constituting, contemplating, covering, criticizing, communicating, detailing, evaluating,  
10 demonstrating, respecting, regarding, concerning, pertaining to, referring to, stating, establishing,  
11 showing, describing, recording, noting, embodying, memorializing, containing, mentioning, studying,  
12 analyzing or discussing.

13 11. "SOURCE CODE" means, without limitation, all text files that have been compiled to  
14 develop any and all computer files or software programs; any sequence of instructions in human  
15 readable form that may be converted into a machine readable language to create any and all computer  
16 files or software programs; and any and all combination of functionalities that may be used to create  
17 computer files or software programs.

18 12. "STATE" means to set forth fully and unambiguously every fact relevant to the answer  
19 called for by the Request, of which YOU have knowledge.

20 13. "YOU," "YOUR" and "YOURS" refer herein to Dennis Montgomery, The  
21 Montgomery Family Trust, Brenda Montgomery, and anyone acting or authorized to act on behalf of  
22 any and all of them – including any representatives, employees, agents, servants, or attorneys and  
23 others who are in possession or may have obtained information for you or on your behalf.

#### 24 **REQUESTS FOR PRODUCTION AND INSPECTION**

25 **Request for Production No. 1:** Please produce all documents that contain any source code,  
26 written by you or under your direction, that relates to the fields of data compression, pattern  
27 recognition, object tracking or anomaly detection (including, but not limited to, all or any part of a  
28 software program or algorithm).



1        **Request for Production No. 2:** Please produce all documents that relate to any research and  
2 development efforts made, by you or by anyone working under your direction, in the fields of data  
3 compression, object tracking, pattern recognition, or anomaly detection (including, but not limited to,  
4 any and all notes, diagrams, laboratory materials, or source code).

5        **Request for Production No. 3:** Please produce all executable versions of any and all  
6 software, developed by you or by anyone working under your direction, which relates to the fields of  
7 data compression, object tracking, pattern recognition, or anomaly detection.

8        **Request for Production No. 4:** Please produce all documents that relate to the software that  
9 you transferred to eTreppid under the terms of the September 28, 1998 Contribution Agreement  
10 (including, but not limited to, all source code – whether in printed or electronic form – executable files,  
11 shop notes, laboratory notes, and any other memoranda).

12        **Request for Production No. 5:** Please produce **FOR INSPECTION** by Jonathan Karchmer  
13 of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty  
14 (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno,  
15 Nevada 89511, or **PRODUCE** forensic copies of, any original or copied electronic storage device,  
16 including any hard drive, or disk. This Request includes, but is not necessarily limited to, evidence  
17 stored in any electrical, electronic, or magnetic form, such as an electronic or magnetic storage device,  
18 including floppy diskettes, hard disks, ZIP disks, JAZ Drives, CD-ROMs, DVD-ROMs, optical disks,  
19 backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants, and  
20 printouts or readouts from any magnetic storage device.

21        **Request for Production No. 6:** Please produce **FOR INSPECTION** by Jonathan Karchmer  
22 of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty  
23 (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno,  
24 Nevada 89511, or **PRODUCE** forensic copies of, any original or copied electronic storage device,  
25 including any hard drive or disk, within your custody, control or possession that was seized by the  
26 Federal Bureau of Investigation (“FBI”) and returned to you pursuant to File No. 295A-LV-39368.  
27 This Request includes, but is not necessarily limited to, evidence stored in any electrical, electronic, or  
28 magnetic form, such as an electronic or magnetic storage device, including floppy diskettes, hard

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disks, ZIP disks, JAZ Drives, CD-ROMs, optical disks, backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants, and printouts or readouts from any magnetic storage device that was seized by the FBI and returned to you.

**Request for Production No. 7:** Please produce **FOR INSPECTION** by Jonathan Karchmer at a time mutually agreeable to the parties, but in no event later than within the next thirty (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or **PRODUCE** forensic copies of all documents and electronically stored information, including, but not limited to, all source code contained on all computer hard drives seized by the FBI and returned to you pursuant to File No. 295A-LV-39368, including, but not limited to, the following hard drives: WD3200, Serial No. WMAMR1066012; WD3200, Serial No. WMAMR1509932; WD3200, Serial No. WMAMR1523649; WD3200, Serial No. WMAMR1537929; WD2500, Serial No. WMAL71844911; WD3200, Serial No. WMAMR1538197; WD3200, Serial No. WMAMR1538570; WD3200, Serial No. WMAMR1538581; WD3200, Serial No. WMAMR1539825; WD3200, Serial No. WMAMR1539942; WD3200, Serial No. WMAMR1543003; WD3200, Serial No. WMAMR1580666; WD3200, Serial No. WMAMR1580671; WD3200, Serial No. WMAMR1612253; WD3200, Serial No. WMAMR1624507; WD3200, Serial No. WMAMR1673681; Serial No. WMAMR1420949; Serial No. WMAD15194737; 120 GB Hard drive, Serial No. WMA8C1223396; 40 GB Hard drive, Serial No. WMAD15256807; 40 GB Hard drive, Serial No. WCAD16502878; 40 GB Hard drive, Serial No. WMAD16644525; 40 GB Hard drive, Serial No. WMAD15335294; 40 GB Hard drive, Serial No. WCAD13691228; 120 GB Hard drive, Serial No. WMA863243070; Seagate 30.6 GB Hard drive, Serial No. 3CK028W3; Seagate 30.6 GB Hard drive, Serial No. 3CK00XXY; and Maxtor 300 GB Hard drive, Serial No. L60XL7PH.

**Request for Production No. 8:** Please produce all versions, both drafts and final, of all eTreppid organizational agreements, including the Contribution Agreement, the Operating Agreement and amendments thereto.

**Request for Production No. 9:** Please produce all documents referencing or concerning your membership in eTreppid, including all correspondence between you, or anyone acting on your behalf, and eTreppid, Warren Trepp, Doug Frye, or any other manager or member of eTreppid.

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1        **Request for Production No. 10:** Please produce all documents referencing or concerning  
2 Copyright Registration Certificates for TXu00098728, TXu800098727, TXu00098699,  
3 TXu000119540, TXu000117868, TXu0002000234, TXu0001992867, TXu0002034758,  
4 TXu0001983147, TXu0002000234, TXu000098731, TXu0002083750, and TXu0002095009.

5        **Request for Production No. 11:** Please produce all Patents and Patent Applications identified  
6 as exhibits during the state court action hearing on eTreppid's motion for preliminary injunction.

7        **Request for Production No. 12:** Please produce all documents relating to eTreppid's  
8 contracts and work with the private sector, including all contracts with non-governmental third-parties.

9        **Request for Production No. 13:** Please produce all documents referencing or concerning any  
10 and all payments from eTreppid to Montgomery.

11       **Request for Production No. 14:** Please produce all documents relating to eTreppid's  
12 contracts and work with the United States Government.

13       **Request for Production No. 15:** Please produce all documents referencing or concerning  
14 eTreppid's monthly invoices to the United States Government.

15       **Request for Production No. 16:** Please produce for inspection all items seized from and  
16 returned to Montgomery in connection with the FBI search, seizure and return pursuant to File No.  
17 295A-LV-39368.

18       **Request for Production No. 17:** Please produce all documents memorializing  
19 communications to and from eTreppid, regarding eTreppid's use and intended use of any intellectual  
20 property in which Montgomery asserts any ownership interest.

21       **Request for Production No. 18:** Please produce all documents (including e-mails and  
22 correspondence in native format) referencing any and all source code used by eTreppid from the  
23 execution of the Contribution Agreement on September 28, 1998 to the present time.

24       **Request for Production No. 19:** Please produce any and all e-mails contained in the e-mail  
25 account(s) provided to you by eTreppid, in their native format.

26       **Request for Production No. 20:** Please produce all e-mails sent or received by Warren  
27 Trepp, Doug Frye, or any other manager, member, or employee of eTreppid, in their native format.  
28



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1       **Request for Production No. 21:** Please produce all correspondence between you and Doug  
2 Frye, Warren Trepp, or any other member, manager or employee of eTreppid, discussing, concerning,  
3 or relating to the management of eTreppid, budgeting for expenses, employment policies, or any like  
4 matters.

5       **Request for Production No. 22:** Please provide all documents which you have provided to  
6 NBC, the Wall Street Journal, or any other newspaper, television network, or other media outlet  
7 regarding Warren Trepp, eTreppid, Jim Gibbons, or any other aspect of the present litigation.

8       **Request for Production No. 23:** Please provide all correspondence between you or anyone  
9 acting on your behalf and reporter John Wilke of the Wall Street Journal, reporter David Johnston of  
10 the New York Times, or any other reporters which discusses, refers to, or relates to Trepp, eTreppid,  
11 Jim Gibbons, or any other aspect of the present litigation.

12       **Request for Production No. 24:** Please provide all documents evidencing any payment made  
13 to you for any purpose whatsoever by Edra Blixseth, OpSpring, Inc, AziMyth, Inc. Michael Sandoval,  
14 or Atigeo between July 2005 and the present.

15       **Request for Production No. 25:** Please provide every contract of any kind whatsoever,  
16 including but not limited to any technology licensing agreements, employment agreements, consulting  
17 agreements, technology sale agreements, or any kind of assignment of an interest in intellectual  
18 property between you, on one hand, and Edra Blixseth, OpSpring, Inc, AziMyth, Inc., Michael  
19 Sandoval, or Atigeo, on the other.

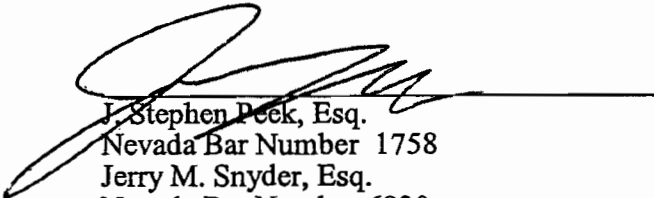
20       **Request for Production No. 26:** Please produce any and all documents, including but not  
21 limited to correspondence, emails (in native format), calendar notes, journal entries, or phone  
22 messages memorializing any communication between you or anyone acting on your behalf and Edra  
23 Blixseth, OpSpring, Inc, AziMyth, Inc. Michael Sandoval, or Atigeo, Inc.

24       **Request for Production No. 27:** Please produce any and all documents, including but not  
25 limited to correspondence, emails (in native format), calendar notes, journal entries, power point  
26 presentations, marketing materials, or phone messages memorializing any communication between  
27 you or anyone acting on your behalf and any customer or prospective customer of OpSpring, Inc., or  
28 AziMyth, Inc.



**Request for Production No. 28:** Please produce all documents identified in your Fed. R. Civ.  
P. 26(a) Initial Disclosures, served on November 2, 2007.

Dated: November 19, 2007.



J. Stephen Peek, Esq.  
Nevada Bar Number 1758  
Jerry M. Snyder, Esq.  
Nevada Bar Number 6830  
Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
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Telephone: (775) 327-3000  
Facsimile: (775) 786-6179  
*Attorneys for eTreppid Technologies, L.L.C. and  
Warren Trepp*

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**PROOF OF SERVICE**

I, Paul D. Cain, declare:

I am employed in the **City of Reno, County of Washoe, State of Nevada**, by the law offices of Hale Lane Peek Dennison and Howard. My business address is: **5441 Kietzke Lane, Second Floor, Reno, Nevada 89511**. I am over the age of 18 years and not a party to this action. I am readily familiar with Hale Lane Peek Dennison and Howard's practice for collection of mail, delivery of its hand-deliveries and their process of faxes.

On November 19, 2007, I caused the foregoing **SECOND SET OF REQUESTS FOR PRODUCTION** to be:

X mailed to the following persons at the following addresses:

**Fax No. 775/829-1226**  
mgunderson@gundersonlaw.com  
Mark H. Gunderson, Ltd.  
Mark H. Gunderson, Esq.  
5345 Kietzke Lane, Suite 200  
Reno, Nevada 89511

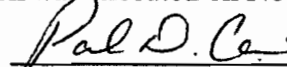
**Fax 310/500-3501**  
Tpham@linerlaw.com; dklar@linerlaw.com;  
rlapine@linerlaw.com  
Teri T. Pham, Esq.  
Deborah A. Klar, Esq.  
Ryan M. Lapine, Esq.  
Liner Yankelevitz Sunshine & Regenstreif, LLP  
1100 Glendon Avenue, 14<sup>th</sup> Floor  
Los Angeles, CA 90024-3503

**Fax No. 202/616-8470**  
Carlotta.wells@usdoj.gov  
Carlotta P. Wells, Esq.  
Senior Trial Counsel  
Federal Programs Branch  
Civil Division – Room 7150  
U.S. Department of Justice  
20 Massachusetts Ave., NW  
P.O. Box 883  
Washington, DC 20044

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Senior Trial Counsel  
Federal Programs Branch  
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U.S. Department of Justice  
20 Massachusetts Ave., N.W.  
P.O. Box 883  
Washington, D.C. 20044

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on November 19, 2007.

  
Paul D. Cain

Hale Lane Peek Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

**EXHIBIT “F”**

**EXHIBIT “F”**

1 Mark H. Gunderson, Esq. (SBN: 2134)  
 Catherine A. Reichenberg, Esq. (SBN: 10362)  
 2 GUNDERSON LAW FIRM  
 5345 Kietzke Lane, Suite 200  
 3 Reno, Nevada 89511  
 Telephone: (775) 829-1222  
 4 Facsimile: (775) 829-1226

5 Deborah A. Klar, Esq. (SBN: CA 124750)  
 Teri T. Pham, Esq. (SBN: CA 193383)  
 6 Tuneen E. Chisolm, Esq. (SBN: CA 211741)  
 LINER YANKELEVITZ  
 7 SUNSHINE & REGENSTREIF LLP  
 1100 Glendon Avenue, 14th Floor  
 8 Los Angeles, California 90024-3503  
 Telephone: (310) 500-3500  
 9 Facsimile: (310) 500-3501  
 ADMITTED PRO HAC VICE

10 Attorneys for Plaintiffs  
 11 DENNIS MONTGOMERY, and the MONTGOMERY  
 FAMILY TRUST

12  
 13 **UNITED STATES DISTRICT COURT**  
 14 **DISTRICT OF NEVADA**  
 15

16 DENNIS MONTGOMERY and the  
 MONTGOMERY FAMILY TRUST,

17 Plaintiffs,

18 vs.

19 ETREPPID TECHNOLOGIES, LLC, WARREN  
 20 TREPP, and the UNITED STATES  
 DEPARTMENT OF DEFENSE,

21 Defendants.  
 22

23 AND RELATED CASES.  
 24

) Case No. 3:06-CV-00056-PMP-VPC  
 ) BASE FILE

) (Consolidated with Case No. 3:06-CV-  
 ) 00145-PMP-VPC)

) **THE MONTGOMERY PARTIES'**  
 ) **OBJECTIONS TO SECOND SET OF**  
 ) **REQUESTS BY ETREPPID**  
 ) **TECHNOLOGIES, LLC AND WARREN**  
 ) **TREPP FOR PRODUCTION OR**  
 ) **INSPECTION OF DOCUMENTS OR**  
 ) **TANGIBLE THINGS**



1 PROPOUNDING PARTY: eTREPPID TECHNOLOGIES, LLC AND WARREN  
2 TREPP

3 RESPONDING PARTIES: DENNIS MONTGOMERY AND THE MONTGOMERY  
4 FAMILY TRUST

5 SET NO.: TWO

6 Dennis Montgomery and the Montgomery Family Trust (collectively the "Montgomery  
7 Parties" or "Responding Parties") hereby respond to the Second Set Of Requests By eTrepid  
8 Technologies, LLC And Warren Trepp For Production Or Inspection Of Documents Or Tangible  
9 Things (the "Requests"). The documents and things to be produced in response to the Requests, as  
10 indicated herein, shall be made available for inspection and copying at the office of Liner  
11 Yankelevitz Sunshine & Regenstreif, LLP, located at 1100 Glendon Avenue, 14th Floor, Los  
12 Angeles, California 90024-3503, at a time that is mutually convenient for the parties.

13 **PRELIMINARY STATEMENT**

14 Responding Parties have not completed their investigation of the facts relating to this case  
15 and discovery is still in the early stages. The responses contained herein are based upon only such  
16 information and documents which are presently available to and specifically known to Responding  
17 Parties. It is anticipated that further discovery and investigation may lead to additional facts and/or  
18 identification of additional witnesses. Accordingly, the following responses are made without  
19 prejudice to Responding Parties' right to amend or supplement these responses, or to produce and  
20 rely upon evidence of subsequently discovered facts and/or witnesses.

21 To the extent applicable, Responding Parties' production of documents in response to these  
22 requests shall be made in compliance with the U.S. Protective Order, entered in this action on  
23 August 29, 2007, and subject to the Protective Order entered in this action on September 20, 2007.

24 **RESPONSES TO REQUESTS FOR PRODUCTION**

25 **REQUEST FOR PRODUCTION NO. 1:**

26 Please produce all documents that contain any source code, written by you or under your  
27 direction, that relates to the fields of data compression, pattern recognition, object tracking or  
28

1 anomaly detection (including, but not limited to, all or any part of a software program or  
2 algorithm).

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

4         Responding Parties object to this request on the grounds that: (i) the request is vague and  
5 ambiguous, particularly with respect to what is meant by source code in the fields of data  
6 compression, pattern recognition, object tracking, and anomaly detection; (ii) the request is  
7 overbroad, especially as to temporal scope; (iii) the request is unduly burdensome, particularly in  
8 light of the volume of documents that would be responsive to the request as written and the  
9 associated cost; (iv) the request calls for information which is neither relevant to the claims and  
10 defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible  
11 evidence; (v) the request is unnecessarily invasive of Responding Parties' right to maintain and  
12 protect its trade secrets; (vi) the request is unnecessarily invasive of Responding Parties'  
13 confidential business information and rights of privacy; (vii) the "Instructions" for the request  
14 purport to impose upon Responding Parties obligations which exceed Responding Parties'  
15 obligations under Rule 34 of the Federal Rules of Civil Procedure; and (viii) the request is  
16 harassing in that it is duplicative, verbatim, of Request No. 18 in eTreppid's first set of requests for  
17 production.

18 **REQUEST FOR PRODUCTION NO. 2:**

19         Please produce all documents that relate to any research and development efforts made, by  
20 you or by anyone working under your direction, in the fields of data compression, object tracking,  
21 pattern recognition, or anomaly detection (including, but not limited to, any and all notes,  
22 diagrams, laboratory materials, or source code).

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

24         Responding Parties object to this request on the grounds that: (i) the request is vague and  
25 ambiguous, particularly with respect to what is meant by "research and development efforts" "in  
26 the fields of data compression, pattern recognition, object tracking, and anomaly detection"; (ii) the  
27 request is overbroad, especially as to subject matter and temporal scope; (iii) the request is unduly  
28 burdensome, particularly in light of the volume of documents that would be responsive to the

1 request as written and the associated cost; (iv) the request calls for information which is neither  
2 relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to  
3 discovery of admissible evidence; (v) the request is unnecessarily invasive of Responding Parties'  
4 right to maintain and protect its trade secrets; (vi) the request is unnecessarily invasive of  
5 Responding Parties' confidential business information and rights of privacy; (vii) the "Instructions"  
6 for the request purport to impose upon Responding Parties obligations which exceed Responding  
7 Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (viii) the request is  
8 harassing in that it is duplicative, verbatim, of Request No. 19 in eTreppid's first set of requests for  
9 production.

10 **REQUEST FOR PRODUCTION NO. 3:**

11 Please produce all executable versions of any and all software, developed by you or by  
12 anyone working under your direction, which relates to the fields of data compression, object  
13 tracking, pattern recognition, or anomaly detection.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

15 Responding Parties object to this request on the grounds that: (i) the request is vague and  
16 ambiguous, particularly with respect to what is meant by "executable versions of any and all  
17 software" developed "in the fields of data compression, pattern recognition, object tracking, and  
18 anomaly detection"; (ii) the request is overbroad, especially as to subject matter and temporal  
19 scope; (iii) the request is unduly burdensome, particularly in light of the volume of documents that  
20 would be responsive to the request as written and the associated cost; (iv) the request calls for  
21 information which is neither relevant to the claims and defenses asserted in this action, nor  
22 reasonably calculated to lead to discovery of admissible evidence; (v) the request is unnecessarily  
23 invasive of Responding Parties' right to maintain and protect its trade secrets; (vi) the request is  
24 unnecessarily invasive of Responding Parties' confidential business information and rights of  
25 privacy; (vii) the "Instructions" for the request purport to impose upon Responding Parties  
26 obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of  
27 Civil Procedure; and (viii) the request is harassing in that it is duplicative, verbatim, of Request No.  
28 20 in eTreppid's first set of requests for production.



**REQUEST FOR PRODUCTION NO. 4:**

Please produce all documents that relate to the software that you transferred to eTreppid under the terms of the September 28, 1998 Contribution Agreement (including, but not limited to, all source code — whether in printed or electronic form — executable files, shop notes, laboratory notes, and any other memoranda).

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

Responding Parties object to this request on the grounds that: (i) the request is vague and ambiguous and overbroad, particularly with respect to what is meant by “relate to the software”; (ii) the request is unduly burdensome, particularly in light of the volume of documents that would be responsive to the request as written and the associated cost; (iii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iv) the request calls for information protected from disclosure by attorney-client privilege and/or the attorney work product doctrine; (v) the “Instructions” for the request purport to impose upon Responding Parties obligations which exceed Responding Parties’ obligations under Rule 34 of the Federal Rules of Civil Procedure; and (vi) the request is harassing in that it is duplicative, verbatim, of Request No. 22 in eTreppid’s first set of requests for production.

**REQUEST FOR PRODUCTION NO. 5:**

Please produce FOR INSPECTION by Jonathan Karchmer of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or PRODUCE forensic copies of, any original or copied electronic storage device, including any hard drive, or disk. This Request includes, but is not necessarily limited to, evidence stored in any electrical, electronic, or magnetic form, such as an electronic or magnetic storage device, including floppy diskettes, hard disks, ZIP disks, JAZ Drives, CD-ROMs, DVD-ROMs, optical disks, backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants, and printouts or readouts from any magnetic storage device.



**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

Responding Parties object to this request on the grounds that: (i) the request is vague and ambiguous and unintelligible in that it fails to identify with any degree of particularity the category of documents sought as required under Rule 34 of the Federal Rules of Civil Procedure; (ii) the request is overbroad; (iii) the request is unduly burdensome, particularly in light of the volume of documents that would be responsive to the request as written; (iv) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (v) the request is unnecessarily invasive of Responding Parties' right to maintain and protect its trade secrets; (vi) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; and (vii) the request calls for disclosure of information to Jonathan Karchmer of LECG, who is neither a party to this action nor an identified retained expert or consultant in this action; (viii) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (ix) the request ostensibly calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.

**REQUEST FOR PRODUCTION NO. 6:**

Please produce FOR INSPECTION by Jonathan Karchmer of LECG at a time mutually agreeable to the parties, but in no event later than within the next thirty (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or PRODUCE forensic copies of any original or copied electronic storage device, including any hard drive or disk, within your custody, control or possession that was seized by the Federal Bureau of Investigation ("FBI") and returned to you pursuant to File No. 295A-LV-39368. This Request includes, but is not necessarily limited to, evidence stored in any electrical, electronic, or magnetic form, such as an electronic or magnetic storage device, including floppy diskettes, hard disks, ZIP disks, JAZ Drives, CD-ROMs, optical disks, backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants, and printouts or readouts from any magnetic storage device that was seized by the FBI and returned to you.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

Responding Parties object to this request on the grounds that: (i) the request is overbroad; (ii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; (iv) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (v) the request calls for disclosure of information to Jonathan Karchmer of LECG, who is neither a party to this action nor an identified retained expert or consultant in this action.

**REQUEST FOR PRODUCTION NO. 7:**

Please produce FOR INSPECTION by Jonathan Karchmer at a time mutually agreeable to the parties, but in no event later than within the next thirty (30) days, at the law offices of Hale Lane Peek Dennison and Howard, 5441 Kietzke Lane, Reno, Nevada 89511, or PRODUCE forensic copies of all documents and electronically stored information, including, but not limited to, all source code contained on all computer hard drives seized by the FBI and returned to you pursuant to File No. 295A-LV-39.368, including, but not limited to, the following hard drives: WD.3200, Serial No. WMAMR1066012; WD3200, Serial No. WMAMR1509932; WD3200, Serial No. WMAMR1523649; WD3200, Serial No. WMAMR1537929; WD2500, Serial No. WMAL71844911; WD3200, Serial No. WMAMR1538197; WD3200, Serial No. WMAMR1538570; WD3200, Serial No. WMAMR1538581; WD3200, Serial No. WMAMR1539825; WD3200, Serial No. WMAMR1539942; WD3200, Serial No. WMAMR1543003; WD3200, Serial No. WMAMR1580666; WD3200, Serial No. WMAMR1580671; WD3200, Serial No. WMAMR1612253; WD3200, Serial No. WMAMR1624507; WD3200, Serial No. WMAMR1673681; Serial No. WMAMR1420949; Serial No. WMAD15194737; 120 GB Hard drive, Serial No. WMA8C1223396; 40 GB Hard drive, Serial No. WMAD15256807; 40 GB Hard drive, Serial No. WCAD16502878; 40 GB Hard drive, Serial No. WMAD16644525; 40 GB Hard drive, Serial No. WMAD15335294; 40 GB Hard drive, Serial

No. WCAD13691228; 120 GB Hard drive, Serial No. WMA863243070; Seagate 30.6 GB Hard drive, Serial No. .3CK028W3; Seagate 30.6 GB Hard drive, Serial No. 3CKOOXXY; and Maxtor .300 GB Hard drive, Serial No. L6OXL7PH.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

Responding Parties object to this request on the grounds that: (i) the request is overbroad; (ii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; (iv) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure; and (v) the request calls for disclosure of information to Jonathan Karchmer of LECG, who is neither a party to this action nor an identified retained expert or consultant in this action.

**REQUEST FOR PRODUCTION NO. 8:**

Please produce all versions, both drafts and final, of all eTreppid organizational agreements, including the Contribution Agreement, the Operating Agreement and amendments thereto.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

Responding Parties object to this request on the ground that the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure. Responding Parties further object to this request to the extent it seeks documents protected from disclosure by the attorney-client privilege and/or the attorney-work product doctrine.

**REQUEST FOR PRODUCTION NO. 9:**

Please produce all documents referencing or concerning your membership in eTreppid, including all correspondence between you, or anyone acting on your behalf, and eTreppid, Warren Trepp, Doug Frye, or any other manager or member of eTreppid.

**1 RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

2 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
 3 (ii) the request is vague and ambiguous, particularly with respect to what is meant by “documents  
 4 referencing or concerning your membership in eTreppid”; (iii) the request is unduly burdensome,  
 5 particularly in light of the volume of documents that would be responsive to the request as written  
 6 and the associated cost; (iv) the request calls for information which is neither relevant to the claims  
 7 and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible  
 8 evidence; (v) the request is unnecessarily invasive of Responding Parties’ confidential business  
 9 information and rights of privacy; (vi) the “Instructions” for the request purport to impose upon  
 10 Responding Parties obligations which exceed Responding Parties’ obligations under Rule 34 of the  
 11 Federal Rules of Civil Procedure; and (vii) the request calls for information protected from  
 12 disclosure by the attorney-client privilege and/or the attorney work product doctrine.

**13 REQUEST FOR PRODUCTION NO. 10:**

14 Please produce all documents referencing or concerning Copyright Registration Certificates  
 15 for TXu00098728, TXu800098727, TXu00098699, TXu000119540, TXu117868,  
 16 TXu0001992867, TXu0002034758, TXu0001983147, TXu0002000234, TXu000098731,  
 17 TXu0002083750, and TXu0002095009.

**18 RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

19 Responding Parties object to this request on the grounds that: (i) the request is vague and  
 20 ambiguous with regard to what is “concerning” the Copyright Registration Certificates; (ii) the  
 21 request is overbroad; (ii) the request calls for information which is neither relevant to the claims  
 22 and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible  
 23 evidence; (iii) the request is unnecessarily invasive of Responding Parties’ confidential business  
 24 information and rights of privacy; (iv) the “Instructions” for the request purport to impose upon  
 25 Responding Parties obligations which exceed Responding Parties’ obligations under Rule 34 of the  
 26 Federal Rules of Civil Procedure; and (v) the request calls for information protected from  
 27 disclosure by the attorney-client privilege and/or the attorney work product doctrine.

28



1 **REQUEST FOR PRODUCTION NO. 11:**

2 Please produce all Patents and Patent Applications identified as exhibits during the state  
3 court action hearing on eTreppid's motion for preliminary injunction.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

5 Responding Parties object to this request on the grounds that: (i) the "Instructions" for the  
6 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
7 obligations under Rule 34 of the Federal Rules of Civil Procedure; and (ii) the referenced exhibits  
8 were submitted by eTreppid, not Responding Parties, and therefore are already in eTreppid's  
9 possession, custody or control.

10 **REQUEST FOR PRODUCTION NO. 12:**

11 Please produce all documents relating to eTreppid's contracts and work with the private  
12 sector, including all contracts with non-governmental third-parties.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

14 Responding Parties object to this request on the grounds that: (i) the request is vague and  
15 ambiguous with respect to what is "relating to eTreppid's contracts and work"; (ii) the request calls  
16 for information protected from disclosure by attorney-client privilege and/or the attorney work  
17 product doctrine; and (iii) the "Instructions" for the request purport to impose upon Responding  
18 Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal  
19 Rules of Civil Procedure. Responding Parties further object to this request to the extent it may  
20 reasonably be construed to call for disclosure of Responding Parties' trade secrets to which  
21 eTreppid (excluding Responding Parties) has not had access.

22 **REQUEST FOR PRODUCTION NO. 13:**

23 Please produce all documents referencing or concerning any and all payments from  
24 eTreppid to Montgomery.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

26 Responding Parties object to this request on the grounds that: (i) the request is vague and  
27 ambiguous with respect to what is "concerning" payments from eTreppid to Montgomery; (ii) the  
28 request calls for information protected from disclosure by attorney-client privilege and/or the

1 attorney work product doctrine; and (iii) the "Instructions" for the request purport to impose upon  
2 Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the  
3 Federal Rules of Civil Procedure. Responding Parties further object to this request to the extent it  
4 may be reasonably be construed to be invasive of Responding Parties' privacy rights or to call for  
5 documents which are neither relevant to the claims and defenses asserted in this action, nor  
6 reasonably calculated to lead to discovery of admissible evidence.

7 **REQUEST FOR PRODUCTION NO. 14:**

8 Please produce all documents relating to eTreppid's contracts and work with the United  
9 States Government.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

11 Responding Parties object to this request on the grounds that: (i) the request is vague and  
12 ambiguous with respect to what is "relating to eTreppid's contracts and work with the United  
13 States Government"; (ii) the request calls for information protected from disclosure by attorney-  
14 client privilege and/or the attorney work product doctrine; and (iii) the "Instructions" for the  
15 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
16 obligations under Rule 34 of the Federal Rules of Civil Procedure. Responding Parties further  
17 object to this request to the extent it may reasonably be construed to call for disclosure of  
18 Responding Parties' trade secrets to which eTreppid (excluding Responding Parties) has not had  
19 access or disclosure of classified government information requiring security clearances which  
20 eTreppid does not have.

21 **REQUEST FOR PRODUCTION NO. 15:**

22 Please produce all documents referencing or concerning eTreppid's monthly invoices to the  
23 United States Government.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

25 Responding Parties object to this request on the grounds that: (i) the request is vague and  
26 ambiguous with respect to what is "concerning eTreppid's monthly invoices"; (ii) the request calls  
27 for information protected from disclosure by attorney-client privilege and/or the attorney work  
28 product doctrine; and (iii) the "Instructions" for the request purport to impose upon Responding

1 Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal  
2 Rules of Civil Procedure. Responding Parties further object to this request to the extent it may  
3 reasonably be construed to call for disclosure of Responding Parties' trade secrets to which  
4 eTreppid (excluding Responding Parties) has not had access or disclosure of classified government  
5 information requiring security clearances which eTreppid does not have.

6 **REQUEST FOR PRODUCTION NO. 16:**

7 Please produce for inspection all items seized from and returned to Montgomery in  
8 connection with the FBI search, seizure and return pursuant to File No, 295A-LV-39368.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

10 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
11 (ii) the request calls for information which is neither relevant to the claims and defenses asserted in  
12 this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is  
13 unnecessarily invasive of Responding Parties' confidential business information and rights of  
14 privacy; (iv) the request is harassing and, to the extent any such items are discoverable, duplicative  
15 of Request No. 7; and (v) the "Instructions" for the request purport to impose upon Responding  
16 Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal  
17 Rules of Civil Procedure.

18 **REQUEST FOR PRODUCTION NO. 17:**

19 Please produce all documents memorializing communications to and from eTreppid,  
20 regarding eTreppid's use and intended use of any intellectual property in which Montgomery  
21 asserts any ownership interest.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

23 Responding Parties object to this request on the ground that the "Instructions" for the  
24 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
25 obligations under Rule 34 of the Federal Rules of Civil Procedure. Responding Parties object to  
26 this request to the extent it may reasonably be construed to call for information protected from  
27 disclosure by attorney-client privilege and/or the attorney work product doctrine.

28



1 **REQUEST FOR PRODUCTION NO. 18:**

2 Please produce all documents (including e-mails and correspondence in native format)  
3 referencing any and all source code used by eTreppid from the execution of the Contribution  
4 Agreement on September 28, 1998 to the present time.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

6 Responding Parties object to this request on the grounds that: (i) the request is overbroad,  
7 particularly as to subject matter and temporal scope; (ii) the request is unduly burdensome,  
8 particularly in light of the volume of documents that would be responsive to the request as written;  
9 (iii) the request calls for information which is neither relevant to the claims and defenses asserted in  
10 this action, nor reasonably calculated to lead to discovery of admissible evidence; (iv) the request is  
11 unnecessarily invasive of Responding Parties' right to maintain and protect its trade secrets; (v) the  
12 request calls for disclosure of classified government information requiring security clearances  
13 which eTreppid does not have; (vi) the "Instructions" for the request purport to impose upon  
14 Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the  
15 Federal Rules of Civil Procedure; and (vii) the request calls for information protected from  
16 disclosure by attorney-client privilege and/or the attorney work product doctrine.

17 **REQUEST FOR PRODUCTION NO. 19:**

18 Please produce any and all e-mails contained in the e-mail account(s) provided to you by  
19 eTreppid, in their native format.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

21 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
22 (ii) the request is unduly burdensome, particularly in light of the volume of documents that would  
23 be responsive to the request as written and the associated cost; (iii) the request calls for information  
24 which is neither relevant to the claims and defenses asserted in this action, nor reasonably  
25 calculated to lead to discovery of admissible evidence; (iv) the "Instructions" for the request  
26 purport to impose upon Responding Parties obligations which exceed Responding Parties'  
27 obligations under Rule 34 of the Federal Rules of Civil Procedure; and (v) the request calls for  
28 disclosure of classified government information requiring security clearances which eTreppid does



1 not have. Responding Parties further object to this request to the extent it may reasonably be  
2 construed to call for information protected from disclosure by the attorney-client privilege.

3 **REQUEST FOR PRODUCTION NO. 20:**

4 Please produce all e-mails sent or received by Warren Trepp, Doug Frye, or any other  
5 manager, member, or employee of eTreppid, in their native format.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

7 Responding Parties object to this request on the grounds that: (i) the request is overbroad;  
8 (ii) the request is unduly burdensome, particularly in light of the volume of documents that would  
9 be responsive to the request as written; (iii) the request calls for information which is neither  
10 relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to  
11 discovery of admissible evidence; (iv) the request calls for documents which are more readily in  
12 the possession, custody or control of eTreppid; (v) the request calls for documents more readily  
13 accessible from and more readily in the possession, custody or control of eTreppid and/or persons  
14 other than Responding Parties; and (vi) the "Instructions" for the request purport to impose upon  
15 Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the  
16 Federal Rules of Civil Procedure.

17 **REQUEST FOR PRODUCTION NO. 21:**

18 Please produce all correspondence between you and Doug Frye, Warren Trepp, or any other  
19 member, manager or employee of eTreppid, discussing, concerning or relating to the management  
20 of eTreppid, budgeting for expenses, employment policies, or any like matters.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

22 Responding Parties object to this request on the grounds that: (i) the request is vague and  
23 ambiguous with respect to what is meant by "any like matters"; (ii) the request is overbroad; (iii)  
24 the request is unduly burdensome, particularly in light of the volume of documents that would be  
25 responsive to the request as written and the associated cost; (iv) the request calls for information  
26 which is neither relevant to the claims and defenses asserted in this action, nor reasonably  
27 calculated to lead to discovery of admissible evidence; (v) the "Instructions" for the request purport  
28 to impose upon Responding Parties obligations which exceed Responding Parties' obligations

1 under Rule 34 of the Federal Rules of Civil Procedure; and (vi) the request calls for documents  
2 more readily accessible from and more readily in the possession, custody or control of eTreppid  
3 and/or persons other than Responding Parties.

4 **REQUEST FOR PRODUCTION NO. 22:**

5 Please provide all documents which you have provided to NBC, the Wall Street Journal, or  
6 any other newspaper, television network, or other media outlet regarding Warren Trepp, eTreppid,  
7 Jim Gibbons, or any other aspect of the present litigation.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

9 Responding Parties object to this request on the grounds that: (i) the request calls for  
10 information which is neither relevant to the claims and defenses asserted in this action, nor  
11 reasonably calculated to lead to discovery of admissible evidence; and (ii) the "Instructions" for the  
12 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
13 obligations under Rule 34 of the Federal Rules of Civil Procedure.

14 **REQUEST FOR PRODUCTION NO. 23:**

15 Please provide all correspondence between you or anyone acting on your behalf and  
16 reporter John Wilke of the Wall Street Journal, reporter David Johnston a the New York Times, or  
17 any other reporters which discusses, refers to, or relates to Trepp, eTreppid Jim Gibbons, or any  
18 other aspect of the present litigation.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

20 Responding Parties object to this request on the grounds that: (i) the request calls for  
21 information which is neither relevant to the claims and defenses asserted in this action, nor  
22 reasonably calculated to lead to discovery of admissible evidence; and (ii) the "Instructions" for the  
23 request purport to impose upon Responding Parties obligations which exceed Responding Parties'  
24 obligations under Rule 34 of the Federal Rules of Civil Procedure.

25 **REQUEST FOR PRODUCTION NO. 24:**

26 Please provide all documents evidencing any payment made to you for any purpose  
27 whatsoever by Edra Blixseth, OpSpring, AziMyth, Inc., Michael Sandoval, or Atigeo between July  
28 2005 and the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

Responding Parties object to this request on the grounds that: (i) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (ii) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; and (iii) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

**REQUEST FOR PRODUCTION NO. 25:**

Please provide every contract of any kind whatsoever, including but not limited to any technology licensing agreements, employment agreements, consulting agreements, technology sale agreements, or any kind of assignment of an interest in intellectual property between you, on one hand, and Edra Blixseth, OpSpring, Inc, AziMyth, Inc., Michael Sandoval, or Atigeo, on the other.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

Responding Parties object to this request on the grounds that: (i) the request is overbroad; (ii) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor reasonably calculated to lead to discovery of admissible evidence; (iii) the request is unnecessarily invasive of Responding Parties' confidential business information and rights of privacy; and (iv) the "Instructions" for the request purport to impose upon Responding Parties obligations which exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

**REQUEST FOR PRODUCTION NO. 26:**

Please produce any and all documents, including but not limited to correspondence, emails (in native format), calendar notes, journal entries, or phone messages memorializing any communication between you or anyone acting on your behalf and Edra Blixseth, OpSpring, the, AziMyth, Inc. Michael Sandoval, or Atigeo, Inc.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

Responding Parties object to this request on the grounds that: (i) the request calls for information which is neither relevant to the claims and defenses asserted in this action, nor

1 reasonably calculated to lead to discovery of admissible evidence; (ii) the request is overbroad and  
2 unduly burdensome as written; (iii) the request is unnecessarily invasive of Responding Parties'  
3 confidential business information and rights of privacy; and (iv) the "Instructions" for the request  
4 purport to impose upon Responding Parties obligations which exceed Responding Parties'  
5 obligations under Rule 34 of the Federal Rules of Civil Procedure.

6 **REQUEST FOR PRODUCTION NO. 27:**

7 Please produce any and all documents, including but not limited to correspondence, emails  
8 (in native format), calendar notes, journal entries, power point presentations, marketing materials,  
9 or phone messages memorializing any communication between you or anyone acting on your  
10 behalf and any customer or prospective customer of OpSpring, Inc., or AziMyth.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

12 Responding Parties object to this request on the grounds that: (i) the request calls for  
13 information which is neither relevant to the claims and defenses asserted in this action, nor  
14 reasonably calculated to lead to discovery of admissible evidence; (ii) the request is overbroad and  
15 unduly burdensome as written; (iii) the request is unnecessarily invasive of Responding Parties'  
16 confidential business information and rights of privacy; and (iv) the "Instructions" for the request  
17 purport to impose upon Responding Parties obligations which exceed Responding Parties'  
18 obligations under Rule 34 of the Federal Rules of Civil Procedure.

19 **REQUEST FOR PRODUCTION NO. 28:**

20 Please produce all documents identified in your Fed. R. Civ. P. 26(a) Initial Disclosures,  
21 served on November 2, 2007.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

23 Responding Parties object to this request on the grounds that: (i) it is incomplete and does  
24 not comply with Rule 34 of the Federal Rules of Civil Procedure, in that it requires reference to  
25 something other than theses requests to determine the nature of the documents called for; and (ii)  
26 the "Instructions" for the request purport to impose upon Responding Parties obligations which  
27 exceed Responding Parties' obligations under Rule 34 of the Federal Rules of Civil Procedure.

28



1 Responding Parties further object to this request to the extent it may reasonably be  
2 construed to call for documents which are: (i) neither relevant to the claims and defenses asserted  
3 in this action, nor reasonably calculated to lead to discovery of admissible evidence; (ii)  
4 government classified; (iii) subject to Responding Parties' rights of privacy; (iv) subject to  
5 Responding Parties' right to maintain and protect its trade secrets; and (v) protected from  
6 disclosure by the attorney-client privilege and/or the attorney work product doctrine.

7  
8 Dated: December 21, 2007

Respectfully submitted,

9 LINER YANKELEVITZ  
10 SUNSHINE & REGENSTREIF LLP

11 By: 

12 Deborah A. Klar  
13 Tuneen E. Chisolm  
14 Attorneys for Plaintiffs  
15 DENNIS MONTGOMERY and the  
16 MONTGOMERY FAMILY TRUST  
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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the LAW OFFICES OF LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP, and that on **December 21, 2007**, I caused to be served the within document described as **THE MONTGOMERY PARTIES' OBJECTIONS TO SECOND SET OF REQUESTS BY ETREPPID TECHNOLOGIES, LLC AND WARREN TREPP FOR PRODUCTION OR INSPECTION OF DOCUMENTS OR TANGIBLE THINGS** on the interested parties in this action as stated below:

J. Stephen Peek, Esq.  
 Jerry M. Snyder, Esq.  
 Hale Lane Peek Dennison and Howard  
 5441 Kietzke Lane  
 Second Floor  
 Reno, Nevada 89511  
 (775) 327-3000; 786-6179 - FAX  
[speek@halelane.com](mailto:speek@halelane.com); [jsnyder@halelane.com](mailto:jsnyder@halelane.com)  
 Attorneys for Etreppid and Warren Trepp

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 Fed. Programs Branch  
 Civil Division  
 Room 7150  
 20 Massachusetts Avenue, NW  
 Post Office Box 883  
 Washington, D.C. 20044  
 (202) 514-4522; 616-8470 - FAX  
 E-mail: [Carlotta.wells@usdoj.gov](mailto:Carlotta.wells@usdoj.gov)  
 Attorneys for Department of Defense

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 Brian M. Heberlig, Esq.  
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 (202) 429-3000; (202) 429-3902 - FAX  
[rweingarten@steptoe.com](mailto:rweingarten@steptoe.com);  
[bhaberlig@steptoe.com](mailto:bhaberlig@steptoe.com); [rayers@steptoe.com](mailto:rayers@steptoe.com)  
 Attorneys for eTreppid and Warren Trepp

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 Attorneys for Department of Defense

Greg Addington, AUSA  
 U.S. DEPARTMENT OF JUSTICE  
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 (775) 784-5181 - FAX  
 Attorneys for Department of Defense

☒ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in affidavit.

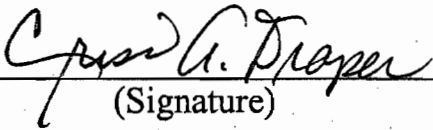
☒ [Federal] I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

PROOF OF SERVICE

1 I declare under penalty of perjury under the laws of the State of California and  
2 the United States of America that the foregoing is true and correct.

3 Executed on December 21, 2007, at Los Angeles, California

4 Criss A. Draper  
5 (Type or print name)

  
(Signature)

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PROOF OF SERVICE